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# Undocumented Mexican Immigration and the Impact of Proposed Federal Legislation on California and Mexico

Assembly Committee on Intergovernmental Relations

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# UNDOCUMENTED MEXICAN IMMIGRATION

And The Impact of Proposed Federal Legislation  
on California and Mexico

Informational Hearing  
of the  
Assembly Committee on Intergovernmental Relations



November 15, 1985  
State Capitol - Room 437  
Sacramento, California

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MEMBERS  
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# California Legislature

## Assembly Committee

on

## Intergovernmental Relations

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### HEARING AGENDA

INTERGOVERNMENTAL RELATIONS COMMITTEE  
IN CONJUNCTION WITH

THE PROJECT ON UNITED STATES-MEXICO RELATIONS  
STANFORD UNIVERSITY

ATLANTIC RICHFIELD COMPANY

THE PROGRAM IN MEXICAN STUDIES, UNIVERSITY OF CALIFORNIA, BERKELEY  
AND  
CALIFORNIA POLICY SEMINAR

FRIDAY, NOVEMBER 15, 1985 - 9:00 a.m.  
Room 437 - State Capitol

SUBJECT: UNDOCUMENTED MEXICAN IMMIGRATION AND THE IMPACT OF  
PROPOSED FEDERAL LEGISLATION ON CALIFORNIA AND MEXICO

OPENING STATEMENT BY CHAIRWOMAN WRIGHT

### UNDOCUMENTED MEXICAN IMMIGRATION

- (1) Impact on California and Mexican economic  
Development

Dr. Philip Martin (University of California, Davis)  
Dr. Clark Reynolds (Stanford University)  
Dr. Jorge Bustamante (Centro de Estudios  
Fronterizos del Norte de Mexico)

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PROPOSED FEDERAL LEGISLATION

(2) Impact on Mexico

Honorable Heladio Ramirez (Member, Senate of Mexico)  
Dr. Jorge Bustamante

(3) Impact on labor unions, business sector, and civil rights

Dr. Rebecca Morales (University of California, Los Angeles)  
Dr. Richard Mines (Labor economist)

Dolores Huerta (United Farm Workers Union)  
Michael Gomez (United Autoworkers Union)

Louis Custrini (Merchants & Manufacturers Association)  
James Van Muren (California Chamber of Commerce)  
Josie Gonzalez (Attorney, Gonzalez & Harris)

Russell Williams (Agricultural Producers)  
Melissa Hansen (California Grape and Tree Fruit League)

Peter Schey (National Center for Immigrants' Rights)  
Linda Wong (Mexican-American Legal Defense and  
Education Fund)  
Elizabeth Sandoval (National Day of Justice)  
Alex Garza (American Farmworker Rights Project)

(4) Simpson and Rodino Bills

Honorable Dan Lungren (Member of Congress)

(5) Impact and role of state and local government

Honorable Brian Bilbray (Supervisor, San Diego Co.)  
Mr. Clarence Leland (Representing L.A. County Board of  
Supervisors)

Hans Van Nes (Department of Food and Agriculture)  
Donald McCune (Department of Education)



86-12-106

HEARING ON  
INTERGOVERNMENTAL RELATIONS

State Capitol  
November 15, 1985

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INTERGOVERNMENTAL RELATIONS  
State Capitol  
November 15, 1985

CHAIRWOMAN CATHIE WRIGHT: Good morning. With some exceptions, no issue engenders as much debate and controversy as the question of immigration policy. And few, if any, areas in the United States have been as sharply affected by immigration as California, now the intended state of residence for over one quarter of all illegal immigrants and the preferred location for most undocumented workers from Mexico. After several years of debate, it now appears fairly certain that Congress will enact legislation this session to address the issues of undocumented immigration. S. 1200 authored by Senator Allan Simpson of Wyoming, was recently overwhelmingly passed by the Senate, and H.R. 3080, sponsored by Representative Pete Rodino from New Jersey, is currently being considered by the House Judiciary Committee. Both measures contain comprehensive and complex provisions that, among other things, would for the first time make it illegal to hire an undocumented alien, and impose fines on employers who hire immigrants, offer legalization to certain undocumented immigrants, significantly increase the budgets of the Immigration and Naturalization Service and the Border Patrol, establish a seasonal guest worker program for the harvesting of perishable fruits and vegetables (contained in only S. 1200.) Needless to say, this legislation will have far reaching implications for our state. The purpose of this hearing is to examine the overall implications of undocumented Mexican immigration on both California and Mexico, and consider what

might be the effects of the Simpson and Rodino proposals on California's business and labor sectors, the Hispanic community, the state and local governments, as well as the impact on the nation of Mexico.

The committee is very privileged to have as witnesses today Senator Heladio Ramirez, a member of the Senate of Mexico, Congressman Dan Lundgren, a member of House Subcommittee on Immigration, and Supervisor Brian Bilbray from San Diego County. In addition, we have representatives from the business community, the agricultural sector, state government, labor unions, civil rights groups and various distinguished scholars.

Lastly, I would like to take this opportunity to express the Committee's gratitude to Stanford University's United States-Mexico Project, the Program on Mexico Studies, the University of California, Berkeley, the Atlantic-Richfield Corporation, and the California Policy Seminar for all their contributions and guidance regarding this hearing.

Our first witness is Dr. Philip Martin. Please go ahead.

DR. PHILIP MARTIN: Thank you. For the record, I'm Philip Martin, Professor of Agricultural Economics at the University of California at Davis. My testimony this morning essentially emphasizes three points. First, California has benefited enormously from past waves of immigration whose ambition and hard work has made California the world's seventh largest economy. So, we start with the proposition that immigrants have in the past enormously benefited the state of

California. Today, immigrants are re-shaping California's population and workforce faster perhaps than many people realize. Conservative projections indicate that there will be as many Hispanics, for example, as non-Hispanic whites by 2030 and that even sooner, by the year 2000, the majority of school age children in this state will be either Hispanic or Asian. The third point is that agriculture is a major industry dependent on immigrant workers. However, there is very little reliable information on the number and characteristics of farmworkers. I've made this testimony deliberately brief because there is elaboration of these points in a recent document that was actually just released today, a monograph published by the Population Reference Bureau, Population Change in California's Future, which has detailed projections for the next 50 years of population by age, by race and by region within the state. Let me just make two points then about population and agriculture. The first is that there is now, as we all know, a fourth wave of immigrants which is re-shaping California. About a third of the nation's immigrants settle in California and the immigrants today, unlike the past, are primarily Hispanic and Asian. A few numbers illustrate how quickly the ethnic composition of the state's population will change. In 1980, non-Hispanic whites were 66% of the state's population, about two-thirds. By the year 2000, that will drop to a little over half, 52%. By the year 2030, that will drop to 38%. What that means is that the changing composition of population is not in itself good, bad or anything else but it does generate a certain number of issues.

These are issues which the State Legislature is very concerned with, such as, what changes we make in the educational system and what kinds of impacts there will be on retirees, the majority of which in the state are going to be non-Hispanic whites and the majority of the workforce will be minority. There may be a number of issues that arise because of that.

You're also concerned today with Mexico. There is a chapter in this publication on Mexico's population. Mexico's population is projected to increase from roughly 69 million in 1980 to 128 million in 2010, which means almost a doubling in 30 years. The Mexican population is young, two thirds of the Mexican population today is under age 25, so there doesn't appear to be any demographic relief from Mexico's urgent need to create jobs. I guess what that's really saying is there doesn't appear to be any sort of natural cessation to the flow or to at least some shortages of jobs in Mexico.

Let me say then just two things about farm labor. As you know, the state's agricultural economy today is in some financial stress and difficulty. One point to make is that wages are not a primary cause of that financial difficulty. The agricultural economy in this state has been sliding downhill since about 1981, but the last general wage increase statewide was in 1981. Today, the average wage in agriculture is about \$5 an hour but there's a tremendous variance around that average, and there's a lot of workers earning the minimum wage and there's a lot of workers who are guaranteed at least \$7 an hour. One implication of that wage spread is that under the guest worker



program there may be one statewide way which growers will have to offer to bring in guest workers. That might make for some adjustments in particular farm labor markets. So wages have not been a big cause of current financial difficulties.

The second point about agriculture is nobody really knows how many farmworkers there are and what their characteristics are. One of the things that I guess could be considered is doing a study to figure out exactly what the numbers and characteristics of farmworkers are. In the mid 1960s, at the end of the bracero program, there were similar questions about exactly how agriculture would adjust to the end of the program, and, at that point, the State Legislature commissioned a study to find out exactly what the numbers and characteristics of farmworkers in this state really were. It might be time to think about doing something similar because we have another situation in which farm labor is a very controversial issue. There are many assertions made, but there's no reliable data base on which to justify those assertions.

To conclude, California has benefited from the waves of immigrants that have settled in the state. Today, there's a new wave which is re-shaping the state's population and workforce and the state has to be aware of the kinds of issues that this re-shaping will engender. In agriculture, the state's farmers are facing economic difficulties but those financial stresses have not been caused by labor shortages or higher wages. It's very hard to predict the effects of immigration reform on the economy or in agriculture simply in part because there is

absolutely no reliable data base on which to make judgements or assertions about what will happen. So I'll stop there.

CHAIRWOMAN WRIGHT: All right. At this point I'd like to introduce Assemblyman Ross Johnson who's joined us. The question I'd like to ask you, given the bills, both bills, that are presently before Congress, if they were passed in their present form, exactly what effect do you feel that that would have on California?

DR. MARTIN: Well, it's a very good question but it's very hard to answer. The bills, as you know, basically have three prongs to them. One is the employer sanctions, the second is the legalization program and the third is the guest worker type program. Take employer sanctions. First of all, it's difficult to know exactly how that will affect employers in this state. It all depends, in part, on what kind of enforcement there is and what kind of safety valves there are. Employer sanctions are very hard to predict because it's like the passage of any law which is difficult to enforce. It's very hard to say what level of enforcement, what level of resources will be there. So the impacts of employer sanctions are very hard to predict. Legalization depends, in part, on how many people there are here in the state who will be eligible, remembering it's going to be delayed and triggered; and secondly, on exactly what kind of criteria will wind up being accepted. For example, if one has to be in the country since 1980, one will be able to buy very easily forged rent receipts and all that sort of thing. Now, there's a real question as to how that legalization program will be

implemented and, of course, then what fiscal impacts that will have on the state of California. The answer is it all depends. We don't know what the number of people is and we don't know their patterns of being here and we don't know how the INS will, in fact, go about implementing those regulations. So legalization, once again, raises many more questions than answers. The same with the guest worker program. We really don't know at this stage exactly how many illegal or undocumented workers there are, where they are, and we don't know how farm employers will adjust to the various programs. So, after looking at this for several years, my real feeling is that the number of changes will be many fewer than what some people anticipate. There will not be revolutionary change, but it will be an evolutionary change.

CHAIRWOMAN WRIGHT: Do you feel, truthfully, that through this legislation we can really close off the borders and prevent illegal entry?

DR. MARTIN: I'm not sure about illegal entry because I'm not an expert on the enforcement. I do know that when the Select Commission looked at exactly this question, one important thing to bear in mind is that even though there is a 2000 mile border and there are 1.2-1.3 million people apprehended along that border, most of those entries are not along 2000 miles of border, but on 200 miles of the border. Most of the border is a desert, so something like 80 or 90% of all the entries are concentrated around San Diego, El Paso, and the lower Rio Grande Valley. Now the INS says, and I'm not an expert and I really

can't judge this, they can, in fact, control illegal entry. Assuming that they can, which is what a lot of people believe, the next question becomes will the employer sanctions have an effect, and on that I can say something because most people don't realize that for 20 years there has been an actively enforced federal employer sanctions law. It applies only to farm labor contractors, and it's the only federal employer sanctions law. Farm labor contractors have been prohibited since 1964 from knowingly hiring illegal, undocumented workers. Everybody expected that law to put many farm labor contractors out of business. The reality has been just the opposite. There are today more farm labor contractors operating in this state than what there were 20 years ago. So clearly, employer sanctions law has not had any impact on that particular kind of employer.

CHAIRWOMAN WRIGHT: Basically, it rests on knowingly employing illegal workers. Is that correct?

DR. MARTIN: Yes, but there are cases, for example, where the same contractor has been picked up hiring the same illegal worker five times. It becomes a question of priority because it's very difficult to actually prosecute people who have mobile offices. I mean, first of all you have to find them and then to actually prosecute.

CHAIRWOMAN WRIGHT: What do you think would be the effect of sanctions on the various industries in California?

DR. MARTIN: All I can say is that when the Select Commission held hearings on industries that would be hurt if illegal immigration were curbed, the only industry that would

come forward and say that we depend on illegal workers and that we will be hurt, was agriculture. The garment industry would not come forward and say that, the restaurant industry would not, the hotel industry would not. No industry except agriculture would acknowledge that they had any dependence on illegal, undocumented workers.

CHAIRWOMAN WRIGHT: Thank you. Any questions? Thank you so much. Drs. Bustamante and Reynolds.

DR. JORGE BUSTAMANTE: Yes. I would first like to say that I am very appreciative of the invitation to present my thoughts to this committee. I'm the Director of the research center that is called Centro de Estudios Fronterizos del Norte de Mexico. I have been doing research in the area of Mexican migration to the United States for the past 17 years and I have had the opportunity to do field work in this area for these 17 years. As a Mexican citizen, I'm concerned with the way that this phenomenon is defined in Mexico and the way it is defined in the United States. The misunderstanding could be characterized as the following: the phenomenon of Mexican immigration is defined in the United States as a law enforcement problem. It is commonly defined as something that has a police type of solution, something that is a domestic problem that could be solved with domestic type of solution, namely, legislation, which is, by definition, an unilateral solution. In Mexico, we see the same phenomenon as basically an economic phenomenon, one that results from a process of interaction of factors located at the two sides of the border, mainly a demand for labor from the United States.

We see this basically economic question as a bilateral phenomenon. That is, one that needs a bilateral approach, a bilateral discussion and a bilateral sharing of responsibilities in terms of dealing with the costs and the benefits that this question has for the two countries. We, therefore, don't see it as a unilateral question from any side, and this represents a problem of communication. We are bypassing each other in this question. We don't have the same definition for the same question. In the United States, when you say illegal alien, that triggers an association with something negative. In Mexico, when you use the same term, it is usually associated with something positive. So, you have a definition that has a positive sign on one side of the border and which has a negative connotation on the other side of the border. The purpose of my statement is to try to clarify what are the areas where probably we could meet each other in a process of communication in which we could at least have the same definitions for this particular question in such a way that we could clarify what are the bases for a more reasonable approach to this question, one that has to be based from the realization of the cost and benefits for the two countries. We don't believe that the Mexican migrant in the United States is a threat. We don't believe that he's a criminal. We don't believe that he's coming to do any harm to the United States. We believe the opposite. We believe that there is part of our best people that are coming to the United States. We believe that these people are determined to work under decent conditions and these people have represented a



benefit for the United States economy and for the California economy. We don't think that our migrant workers pose a threat for agricultural development in California. We think that California businesses have been able to stay in business thanks to the access to this labor coming from Mexico, and, obviously, the most conspicuous industry is agriculture.

CHAIRWOMAN WRIGHT: Dr. Bustamante, do you feel that it is a negative for the nation of Mexico to lose so many of its people coming north into California or do you think a certain percentage of them only come in to work for a certain period of time and then return to Mexico?

DR. BUSTAMANTE: I would like to respond by saying that we would like to export products, not people, and any product definition cannot be based on the assumption of export of your own working force. Therefore, as a principle, migration, as it has been stated by the Mexican Senate, is against our national interest. That is the principle. Now the reality is quite different. The reality is that we don't have the means to implement that principle and, in fact, we would say that it is difficult to think of a means to implement that principle in the sense that the phenomenon responds to forces of an international labor market and there is to the extent that there is a demand of the United States going to be a supply coming from Mexico, given the proximity. In this context, what happens is that, yes, our migrants come to California basically on a temporary basis. Now there is a very paradoxical situation that we have been able to detect. As Immigration Naturalization Service has increased its

efforts the length of time that migrants spend in California has increased. In the past, it was shorter. Now in the last three years, this period of time has increased because the migrants consider the chance of apprehension has increased.

CHAIRWOMAN WRIGHT: Do you feel that any nation has the right to determine who will come across their borders?

DR. BUSTAMANTE: Absolutely, yes. This is something that is essential to recognize that every country has the sovereign right to determine who should enter and who should not. The problem is that the United States is the only country in the world that allows an employer to hire an alien who has violated its immigration law. This is a contradiction in judicial terms and it is that contradiction that has shaped question of undocumented immigration from Mexico. We would like to have a situation that viewed this question bilaterally in a way that we don't have to resort to this kind of incongruity in the law but something that would be the result of a reasonable understanding between the two countries.

CHAIRWOMAN WRIGHT: Then do you favor sanctions against employers who hire illegal immigrants?

DR. BUSTAMANTE: As a Mexican citizen, I don't favor one thing or the other. As a Mexican citizen, I respect the internal process of legislation in the United States. Now having said that, I would say that any unilateral approach is not congruent with the way we see things.

CHAIRWOMAN WRIGHT: Well, the reason I say that is because it is my personal feeling that I've always disagreed with

the idea of punishment. I would rather see incentive than punishment, and I was just trying to get your feeling on that and I can appreciate the fact that, being a Mexican citizen, you do not want to make that determination.

DR. BUSTAMANTE: With that in mind, I think that it is promising and very encouraging that the California State Legislature is interested in this question because I think that we have to define the question of Mexican immigration to the United States in regional terms and in sectorial terms.

Mexican migrants do not come to the whole United States in equally proportional numbers. Specifically, 48% of the total numbers that we have detected coming to the United States come to the State of California. They don't come to the whole occupational structure of the State of California. We're talking about basically unskilled labor. They are not unskilled necessarily in Mexican scaling of skills, so I would like to make that point because these are people with higher levels of education than the national average. They are not the poorest people of the country; there is no relationship between poverty and migration. In fact, we have found that 85% of the undocumented immigrants had a job in Mexico prior to crossing the border. That means that the incentive is not finding a job but finding better wages to compliment their income. That seems to be the most important cause but that certainly is not the only cause that explains the phenomenon, otherwise everybody in Mexico should be crossing the border to the United States. So, it is wage differentials plus other factors that we have to distinguish

in regional terms by focusing on the areas where most of the undocumented immigrants come or are found in the United States and the economic sectors where undocumented immigrants are found in California. Also, we need to analyze the regions and sectors in the economy where they come from in order to assess the cost and the benefits for the two countries.

One thing that we have found that I would like to state here is that, contrary to the common opinion about undocumented immigration from Mexico in the United States, we have found that the flow from the traditional areas of Mexico to California has been diminished. We have found that this flow has diminished compared to the previous years and this is due not to the fact that they don't want to come or have decided not to come, or because the dollar is less attractive, very much the opposite, but due to the fact of inflation. The cost of migrating from the traditional areas of migration to California has increased in the last three years more than ten times. The cost of migration in 1981, which was something in the neighborhood of 15,000 pesos at that time, now is 150,000 pesos. This has represented a certain deterrent in terms of the flow from the traditional areas of migration to California. Now I must say that we have found a slight increase in the flow going to Texas. That is, the proximity of the border is representing an important element in the cost of migration, and the cost of migration to California is the highest. Less people can afford migrating to California in comparison to the past, and this is congruent with another important element. That is, Tijuana and Mexicali now have the

problem of labor shortages, and Tijuana is probably the Mexican city with the lowest unemployment rate in the country right now. The Maquilodora industry is currently in an outcry for workers -- semiskilled and skilled workers -- because they can't find the workers for this very important industrial operation at the border.

In that respect, we are very concerned regarding the statements from Immigration and Naturalization Service officials, statements saying the opposite and making assumptions that trigger emotions and sentiments emphasizing negative aspects of this particular phenomenon. I'm referring specifically to the fact that the Immigration Authorization Service usually equates the statistics of apprehensions with the statistics of different individuals. They have led the American public to believe that their statistics and apprehensions indicate different individuals. That is, when they indicate they apprehended more than a million undocumented immigrants from Mexico, it suggests to the American public that they are talking about one million different individuals, when, in fact, they are talking about more than a million events of apprehension where one individual could be apprehended several times. And that certainly shows in the statistics of apprehensions, which are the statistics of events, not the statistics on different individuals. The fact that they have not clarified that to the American public has been the basis of an increase of negative sentiment in the United States that has been nurturing the idea of a silent invasion. We consider that not only wrong, but unhealthy for relations between our two

economies and our two societies. We would like to see that clarified for the American public. That is a source of error that is simply false and is misleading. Thank you very much.

CHAIRWOMAN WRIGHT: Thank you. Any questions? Dr. Reynolds.

DR. CLARK REYNOLDS: Thank you very much. I too will be submitting some written remarks, which are presently in draft form. I'm going to excerpt some of these draft remarks. Let me say that again the U.S.-Mexico Project at Stanford is operating on the basis that there is an interdependence between the two countries, which you might call a functional economic and social interdependence. This reflects the fact that there are complementarities north and south of the border that exert very powerful forces on patterns of migration and that those patterns of migration are linked in different ways to trade, investment, technology and to the very inequalities between the two countries. What we've tried to do in these hearings is to take a look at this interdependence from a regional perspective, in particular, as well as in terms of California and Mexico because we believe that not only do these asymmetries between the two countries lead to things like migration but also they have a very important and even greater impact on California than they do on other parts of the United States. Now, understandably, migration policy is being dealt with in this country as a national policy, as a domestic policy, not really as a foreign policy except with respect to those who come here as exiles or victims of oppression in other countries. It's handled by the Justice Department as an



internal problem and is not viewed as part of a functional international, economic and social process in which the U.S., a relatively rich country, sits in the middle of a world of relatively poor countries and that wherever this disequilibrium exists there is an enormous differential in incomes and wages of the same skill.

Now, you can say, "Well that's life, that's the way the world is--some countries are rich, some countries aren't rich." We certainly cannot victimize our own citizens because there are pressures to reduce inequality, what you might call "market forces" at work in economic and social markets, that would lead to a breakdown of this relationship because that threatens our own society. As a matter of fact, that's a point of view that's been, on and off, voiced over the whole history of the United States. We have to think of our own interests, of course, in this. In addition, there are questions whether our interests are served by this kind of approach of raising barriers, and in what manner do we raise barriers and to what extent do the barriers that we raise affect other relations between the United States and countries offshore, including our near neighbor Mexico.

California is a very special case in the United States. It's an economy that has grown relatively recently, really since World War II, becoming a full-fledged industrial and service economy. It's one of the largest economies in the world today. It's somewhere between sixth and eighth largest economy in the world in terms of size and per capita income.

Now, it is not surprising that we're seeing this reflected in migration flows, because people with an aspiration for a better life are using everything at their disposal to come north at the very time that people in California, who have a desire to make a profit and to operate competitively in an increasingly interdependent world economy, find it necessary to get labor at the most favorable rates. If the wage levels are six, eight, ten times different north and south of the border, you have a functional set of market forces at work. If you attempt to put up barriers, it's very much like any other barrier to trade your investment. Barriers are the same as tariffs or controls on trade.

CHAIRWOMAN WRIGHT: Excuse me, Dr. Reynolds. Do you feel that the immigration bills do not address what is a unique relationship between California and Mexico?

DR. REYNOLDS: I think it's absolutely clear in my mind that these measures are not addressing the problem of California. Not only are they not addressing the problem of California but the author of one bill, Senator Simpson, has said up front that he has no interest in the specific problems of California. I don't know what he said recently in the sessions here at the first of the month, but he has made these statements in public and that's not a criticism. I'm not blaming a senator from the north central states--the northern border of the United States--to not be interested in California. Why should he be? What surprises me is that California's interests have been so underrepresented in the debate.

CHAIRWOMAN WRIGHT: With 45 members of the house, you would think we would be having some kind of input...

DR. REYNOLDS: You would think there would be a far more regional expression of concern in the national policy debate than we're seeing, and I think this is where the Assembly and the State Legislature have a very important potential-informing role to play, a role as an exponent of the interests of the Southwest and California. Wyoming is not next to Mexico, Colorado is not next to Mexico, New England isn't, or even Pennsylvania. We are next to Mexico.

One out of every three new workers in California is a Mexican. According to the 1980 census, 15% of our entire labor force comes from other countries. In other words, that percentage, 15% of the California population, coming from other countries represents one of the highest percentages the U.S. ever had even in the times of the heydays of migration. The figures vary but 40-60% of the undocumented Mexican immigrants come to California. We then have to ask ourselves, is this phenomenon against the interests of California in the southwest? Is it against the interests of Mexico? Are these desperate attempts to circumvent barriers to the market against the interests of the people of California? I think the answer to that, based on seven years of intensive research on this subject, is overwhelmingly "no, they're not against the interests," although there are certainly some elements that are against the interests of groups and they're certainly elements in the process of the migration flow which are not ideal. Any kind of flow that is illegal

cannot be all good. It's like the prohibition period. If you put up a barrier to a functional flow, or any other barrier on exchange, it gives rise to a lot of nefarious interests; it gives benefits to those who are in the business because it's illegal because there are profits or rents to be earned on an illegal trade, trading in human beings, trading in people that are basically trying to find a better life. Moreover, 80-90% of the people coming up from Mexico go back. So, it's not that those who are coming here are coming to put down roots permanently in California.

CHAIRWOMAN WRIGHT: Excuse me, Dr. Reynolds. That raises a question in my mind. Do you think that it would be preferable for the United States to issue temporary visas to these workers, or do you think that it would better if the United States provided investments for Mexico?

DR. REYNOLDS: I think that we should do both things, but a temporary visa program is a program that, in my view, and I think I share the views with Professor Bustamante and many in Mexico, needs to be worked out jointly. I know that is unusual. The United States has not customarily set up that kind of a program as a joint effort with another country, although we did with Mexico during World War II. I'm not proposing a new bracero program per se, and I think a lot of times people look at programs like the European guest worker programs, and they say, "There are parts of those programs we don't like. Therefore, we don't want those programs. We don't want any kind of a temporary visa program." Well, I think that's just a whistling in the

dark. We are going to have workers coming into this economy. I remember one specialist on migration economics at Harvard who said, "Not to worry because if we close the door to the Mexicans, we can have people from Israel come into California." Well, the point is people are going to come in. That is, the cutting edge of the U.S. economy is the Southwest, and the cutting edge of the Southwest in economy is functionally linked into this type of labor force. Maybe it isn't attractive, but it's a fact of life.

CHAIRWOMAN WRIGHT: Mr. Johnson.

ASSEMBLYMAN ROSS JOHNSON: That's true up to a point, but it assumes that only the elements affecting the natural flow are issues affecting immigration, but it actually involves all sorts of domestic policies within the United States. Welfare is the obvious one that comes to mind. We create, in effect, an artificially high demand for labor in California because we maintain a social welfare program at a level that discourages American citizens from seeking these very jobs. Much of what has been said with relation to the best and the brightest of Mexico seeking opportunities in the United States is true. However, there are a great many other policies that affect that natural flow.

DR. REYNOLDS: That's well put, and we do take a holistic approach to this. I agree that tax policies, welfare programs, and many other programs do not give incentives to go out and find jobs in the marketplace. I'm certainly not suggesting that we dismantle the welfare program, but I think there are welfare programs and there are welfare programs and I

believe even the Brown Administration, at one point, was talking about a work/welfare program. So, a whole range of political or ideological perspectives are consistent with finding ways in which the biblical injunction "to eat bread by the sweat of your brow" can be carried out in the United States, and I think that's certainly part of the problem. However, if we took the number of people that you might estimate (I don't know what the right word is) that are inefficiently on welfare, let's put it that way, that's a drop in the bucket in terms of those who would actually go out and take the kinds of jobs that are being engaged in by the immigrant labor force. I certainly think that there is a way. I'm not proposing that we open the door. I'm not proposing that we close it or attempt to close it. I'm suggesting that we recognize it as a functional relationship and that we attempt to articulate in a coherent way a broad range of policies so that Mexico's interests and California's interests are a reflection of the national interest. Now, this kind of an articulation involves what Assemblywoman Wright mentioned as an investment possibility south of the border and I think that's very important. We did a paper on that in December for the American Economic Association, which, if you like, you can put into the record, that argues that there is a significant trade-off. It is happening, and it's something that we can encourage. We want to encourage it, however, in such a way that you don't kill off viable sectors of the California economy. For example, many of the service industries in California are difficult to put off shore. Many health, welfare and other services for elderly



people really are not possible to be in the labor force. You cannot export those. The quality of life for people in California depends very heavily on services, and the importance of our manufacturing sector depends on the availability of close-at-hand complimentary manufacturing in assembly activities in which fairly low skilled labor is employed. In addition, our agricultural sector, particularly small farms, must be taken seriously in terms of their need, at least for a period of years, for a relatively significant amount of low-skilled, low-cost labor.

CHAIRWOMAN WRIGHT: Thank you very much. At this time, I would ask Dr. Bustamante to remain for Senator Ramirez's testimony. I want to tell you, Senator Ramirez, how very, very happy I am that you took the time to come before my committee. I'm very pleased.

SENATOR HELADIO RAMIREZ: (Translator: Dr. Jorge Bustamante.) Please allow me to transmit to you a friendly greeting from the President of the Grand Commission of the Mexican Senate, who asked me to express to you his very high interest concerning the results of these deliberations. The discussions here, without a doubt, will reenforce our common purposes of good neighbor, and they will be coming to share the spirit of equality and mutual respect under which we would like to base our relationship.

I would like to thank you for the high distinction and honor that you have granted me to share with you the interest that we have in common in respect to the question of migration of

workers from Mexico. I wouldn't like you to take my words that I will express this morning as the formal opinion of the legislative body to which I belong because I don't have that representation, but I wouldn't like to deny that many of the things that I will express here around the theme of migratory workers are shared by many of my colleagues in the Mexican Senate. My presence in the California Legislature marks a very important precedent for the future of our parliamentary relations between the State of California and Mexico. This is the first time that a Mexican Senator has come to a hearing of a state legislature to share in the deliberations in a matter as delicate as the issue of Mexican workers in the United States;. a matter that without a doubt has placed a serious predicament in the history of our border relations.

I am very pleased to participate in this dialogue because I'm convinced that this dialogue could have very important political implications and I am persuaded that my judgement and analysis will be registered for the record for the popular representatives of one of the most wealthy states in the United States, indeed, on the planet. In addition, it is the state of California whose geography is a destination for more than 50 percent of my compatriots that cross the border.

I'm convinced that for historical reasons you, the people of California, are better endowed to perceive, better than anybody else perhaps in the country, the various shades of the phenomenon of the migratory question. Because of that you are also the depositories of a very important challenge that we share

as representatives of a free country and that is to mark the patterns of a vicinity that is at the height of the challenge of our times and our respective countries within the consciousness of a new dimension of our problems.

In the intense relationship that marks the history of the relationship between California and Mexico, few subjects have reached such a passionate and emotional controversy as the matter of the undocumented migrants coming in from Mexico.

Many judgements have been expressed but few have reached the objective level of analysis about a phenomenon that it is not exclusively confined to our two nations but actually is very common in many areas of the world. This phenomenon occurs in many areas of the world to the extent to which inequality exists between levels of the development of different countries of the world.

In our contemporary world, migratory movements emerge as continuous response to economic inequalities between different countries. These are not temporary events but permanent processes. They express the processes of development that characterize the underdeveloping countries vis-a-vis the concentration of possibilities that exist and characterize developing societies.

In Latin America, 50 million migratory workers cross borders to go to labor fields in different countries in order to obtain ways for their own survival.

In the European Economic Community, 12 and a half million workers work without the possibility for governments to

do anything against that in spite of the pressure that these governments have to support more than 15 million unemployed workers in their own countries.

Migration goes from poor countries to rich countries and this is economically without a remedy. This is a problem that affects many of the areas of the world that are more favored by economic development. Migration from Mexico to the fields in the state of California is not a recent event.

History tells us that since the beginning of the century, the North American Southwest began with the impulse and input from the many workers that came to this area and contributed to their flourishing and development in agriculture and development of communications, such as highways, and this has been an important input in the California development.

California employers designed both the system of recruitment of workers from Mexico and, at the same time, supported the mechanisms of deportation when these workers were no longer needed according to its economic interests. There was a time when migration from Mexico to the United States was signified by a very open element of mutual cooperation.

American interpreters needed and requested a labor force from Mexico and this labor force was allowed to be delivered by the Mexican government through mutual agreements that lasted more than 20 years. The program, however, did not have the legal mechanisms for these exchanges. In fact, the lack of respect behind the statements of this international agreement were characterized by the behavior of the main actors of these agreements.

It was very often found that when the Mexican government requested that the American government provide a more fair and just treatment to the Mexican braceros of the time, following the mandates of the international agreements, those involved in the program resorted then to the more expedient way of a clandestine introduction of these workers to the United States.

There was then, because of this practice, a disincentive to continue with these agreements because there was no respect for the clauses of these agreements in the practice by employers who, in fact, opened the border for hundreds of thousands of workers coming from Mexico for their labor demands.

What we found from the point of the American recruiters was the need for this labor force, not in the terms expressed by the Mexican government but exclusively according to their unilateral interest, unilateral economic interest.

We found that when Mexico resisted the idea of continuing to supply workers for the Texas recruiters particularly in agriculture, they resorted then to a massive importation with no respect to the agreement of Mexican workers or then they sent to Mexico recruiters, to the interior of Mexico, in order to foment the clandestine crossing of the border.

We can state very clearly that the main creators of the clandestine migration across the border have been historically those who have gained in economic terms from the cheapening of the labor force. That is the truth.

The experience of the bracero program between Mexico and the United States was a bitter experience not only because the terms were never fulfilled, but the implications of these questions were way beyond the labor experience.

When the Mexican government demanded a humane treatment for the Mexican citizens or when the Mexican government was deciding to terminate the mutual agreement, those who benefited resorted to the direct recruitment of Mexican workers across the border. This resulted in a de facto opening of the border. When the United States faced unemployment, then the Mexicans were expelled immediately. One thing that I would like to say to you is that for Mexico, the most important element of this interplay was a demand for justice and human and labor rights for these migrant workers.

The most important thing is not to resort to historical considerations. What I consider most important is to remember that geography has made us neighbors but social and economic differences have separated us. We also have to understand and remember that Mexico has been able to respond with solidarity to the United States in crucial moments of the history of the United States, such as in the Second World War when we became allies to the United States in many areas, particularly with the supply of labor.

The freedom that we won in Mexico through our struggles, and the freedom that you won through your own struggles, resulted in the principles that were written in our fundamental judicial charters, which become the very basis of our institutions.

Given the consideration that we are forced to be neighbors in a world that is increasingly complicated and increasingly unstable, it would be absurd to maintain conditions of distrust and misunderstanding.

This is why we, in the Senate, are concerned because of some of the unilateral approach that certain sectors in the United States' political spectrum have taken in regard to the issue of migratory workers from Mexico. These groups have generated in their vision a syndrome of silent invasion and this syndrome has been the basis for a diagnosis, sometimes an apocalyptic diagnosis, as the biggest threat for the future of this country. It is vital that we better understand this question if the United States doesn't want what has been said, that it has "lost control" of its borders. This is a false conception of the question. It represents misunderstanding and it is complicating things.

Several factors have resulted because of the sentiment that Mexican workers pose a threat and are the basis for worker displacement and social instability in the United States. This has generated, sometimes, racist attitudes of hostility against the Mexican people, which contradicts our purpose of being a good neighbor.

I have asked myself several times if political, legislative, military and police barriers would be enough to stop the flow of people that are dispossessed.

The reality is that those who are seeking jobs, or are trying to improve their economic conditions or their work

conditions, look for better conditions where they exist and this makes it very difficult to stop them by repressive measures.

What we have to understand is that this labor force coming from Mexico is required and demanded in the United States. Meanwhile, in my country there is a surplus of labor. This phenomenon of migration will persist.

I wonder if there is a solution to the question of undocumented immigrants in the legislation that currently is being discussed in the Congress of this great nation. I believe it ignores international repercussions of this question.

Nobody questions the right of Congress, or any other Congress in the world, to legislate in something that is pertinent to the interests of their own people.

However, I would like to point out that it would be very positive for these migratory problems to be considered as a question that is imminently shared by our two countries. Based on this consideration, we have the obligation to consider every aspect of this problem.

We owe our people and the history of our relationship caution in our responses. We cannot afford the luxury of meeting the reality of these questions in armed only with perceptions that have not been proven.

I would like to make it clear that my statements should not be interpreted as any desire whatsoever to intervene in the legislative process that takes place in North American and the state of California. With this, we would like to give evidence of the full respect that we pay to the sovereign decisions of the



United States and we would like to set an example with my presentation here.

But at the same time, I would like to stress that any unilateral decision on an international question such as the migratory question would be far from a realistic solution and, indeed, could provoke negative effects and make things worse.

The main reason why I am here is because I am encouraged by the possibilities of establishing communications that will lead maybe to a bilateral forum where we could debate and inform each other. We could arm ourselves with better reasons before we begin crystallizing it into a law. I think, in particular, the possibilities of introducing certain discriminatory elements is far away from a solution and instead, it could be the source of new conflicts -- political conflicts -- in the future.

We think in Mexico that when they speak about demanding documents for migratory workers and when they are discussing the sanctions to employers, this could be totally inefficient in terms of reaching the objectives that are expressed in the law because this would be contradictory with the purpose of the law in the sense that it would further increase illegality in the market of illegal documents, or falsified documents.

When we discuss this matter in Mexico, we think that the results of this proposal would perhaps be very negative, particularly for Mexican-Americans, because they could be seriously affected by the repercussions of that particular legislation.

Not even the most sophisticated electronic detectors, or the perfecting of wire fences, nor with the most aggressive measures of repression, would be enough to stop a flow of workers that have been attracted by a demand in the United States, and are characterized by hopes, abilities and elements that benefit the economy of the United States.

We don't think that your position in regard to guest workers or a partial legalization of a certain number of undocumented immigrants could be enough if they are not the result of, and inspired by, policies that are the result of bilateral discussions and policies. This would be an example of the constructive solutions that have characterized the history of our bilateral relations.

I'm convinced that the only way in which this migratory phenomenon is going to be solved is by closing the gap between the rich and poor nations.

This is why the World Bank has recognized the persistence of international migration on a massive scale from poor countries to rich countries all over the world.

As your neighbor to the south, I think it is very important to state and to tell you that we in Mexico, with our 75 million inhabitants, and being one of the highest 15 economies of the world, have problems that are related to the complexities of our increasing process of development. We are surrounded by adversities of many kinds that we are trying to face by ourselves with our own resources because we have been used to dealing with crises, and we have demonstrated that we are capable of creating

our own institutions and our own solutions and we will continue doing that.

As with the United States, we have problems of public and commercial deficit. They are of a different kind, but the impact could be considered as similar.

In the same way that you do, we fight against the immoral exercise of power, and as you are, we are a proud people that are capable, as you are, to direct and determine our own destinies in spite of the many problems and obstacles that every country has to confront in their own struggles for political and economic development. We should recognize that in both countries there are societies that are very active in the exercise and demand for democracy and demand for their own rights and demands for the better distribution of justice according to the popular needs.

There is an advantage in the migration of Mexican workers to the United States to the extent that they contribute to the alleviation of some of the problems of unemployment and particularly of the currency that we need to face our foreign debt in recent times. I would like to point out that within our country there is very intense internal migration. This migration is growing and it is considered in Mexico as healthy because it allows mobilization of more than four million workers from very diverse areas of the country. Migrant workers from Mexico to the United States represents one fifth of the labor force in Mexico. We do not ignore the positive impact that the presence of these workers represent for the prices and consumer interest and for

the production of services and goods, not only in the border area but in many areas of the interior of this great nation.

On the other hand, we are very concerned about the conditions of exploitation of the migrant workers that go to other countries. Also, we are concerned about exploitation that exists within our own country for migrants that come from other countries. This is the reason why we have already initiated legislative governmental actions that are geared to the needs of these migrants, and this is the theme that we are discussing in our public hearings that we are undertaking in our country. We are concerned about discriminatory practices against Mexican workers, undocumented workers, in the United States in spite of the way in which they contribute not only with their arms and their labor force in a physical manner but also with their talent, and this is something that benefits economic activity in the United States.

Our migration to the United States is different. Migrants that came from Europe, Africa, or Asia to the United States in the past left behind everything they owned and everything they had in their countries of origin and adopted a new nationality in the United States. The oceans and the distance contributed to this process. This is not the case with the Mexican workers. They retained their historical and cultural roots, and even though they are far away from their country, they maintain strong cultural sentiment.

I would like to stress one aspect that I consider crucial and I would like to state it here. Mexico needs the

labor force of the migrants. The Mexican economy needs the experience of the migrants. The Mexican economy needs the experience and the knowledge that has been accumulated by these migrants. We are making efforts, unprecedented efforts, to offer alternatives to these migrants, to offer alternatives to all Mexicans that want to improve their lives. We are trying to offer alternatives to our youth that are seeking jobs for the first time, with the realization that this group represents a source of wealth that is crossing the North American border and that is producing wealth in the United States instead of producing wealth where they acquired their abilities.

If we would make a balance of what migration represents in terms of the loss of human capital resulting from migration and the result of what they could have created in Mexico, given the resources for this, this balance would be negative for Mexico and the result would be very positive for the United States in economic terms. Every time a migrant comes to the United States, far from alleviating problems, it is creating more problems in Mexico in regard to the effort of constructing an economic structure for our own society. That is the reason why we would like to defend the labor rights of our compatriots, wherever they are seeking jobs.

There are some people in the United States that think that if there were a massive expulsion of Mexicans from the United State, Mexico will go into a total bankruptcy. I would like to persuade you not to exaggerate the weakness of my country. Our history is an example that in the worst adversities

the world has not collapsed on us. We are facing our problems of development with renewed nationalism. We're trying to develop our own resources with more strength in our spirits and we would like to do it with more rationality.

I think that the problem under discussion is not whether the United States alleviates our problems of unemployment, or whether the United States is helping Mexico by opening the United States to the Mexican workers. I think that the question is to become aware that we are facing mutual benefits and mutual costs. I would like to stress the bilateral aspects of this question in a manner similar to what we are trying to do in the light of the question of our brothers to the south, from Central America, that are seeking employment in our own country. We have been trying to reach agreement with the government of Guatemala, and we're trying to dissipate the problems of Central America related to migration from Central America. President de la Madrid has led an action to reach agreement with the government of Guatemala in order to guarantee the human and labor rights of migrant workers from Guatemala as they correspond to the rights that are stated in our statutes.

We know that only by sitting at the same table to discuss these questions are we going to reach a common purpose. We know that the only way that we are going to solve this question of migration is by reaching the economic situation of offering jobs for everybody that wants these jobs with adequate wages. We want to reach a relationship that is based on justice for everybody that crosses the border to our own country, and we

would like to also have the same treatment for everybody that goes out of our country and knocks at the door of other countries.

This is what we are trying to reach in our country, but in order to accomplish this we need time. We need effort and understanding on our part and on your part. We need the understanding of our friends from outside of Mexico.

Madame Chairman and ladies and gentlemen of the California Legislature, my country is undertaking a very difficult moment. The present condition is characterized by a diminishing of the oil products that we export. Nature has been very difficult on us and not only has brought destruction to our capital and other places of our country, but we have experienced a dramatic decrease in the number of tourists which has produced a very negative impact on our economy. All the problems that have been related to these disasters have been lessened by the fact of the foreign aid that we have received from friendly countries. We are deeply grateful for the help and assistance, both governmental and private, that we have received from many people from the State of California to those Mexicans that have been affected.

We are not complaining in any way. We're trying to confront our own realities, identifying our problems, and trying to correct the mistakes that we have made and the deficiencies that we have detected; planning the strategies that are adequate to our own realities following the intelligent leadership and interest in our people that characterize the actions of President Miguel de la Madrid.

We don't ignore that the way that we have to follow is complex and long, and, in this way, it is going to impose on us more work and more sacrifices, but, at the same time, we realize that we live in a world of increasing interdependence and that many times the decisions that we have to make are nullified by the actions that are taken outside of our own countries in the international sphere. At the same time, we understand that interdependence has to be on the basis of reciprocity and that there is no country, however powerful, that could be excluded from this process of interdependence. Those countries that are importing wealth at the present time should be awakened to the fact that they are importing poverty at the same time.

We are concerned about some aspects that characterize the United States at the present time. We are concerned about military spending, we are concerned about your trade imbalance, your consumption of energy, the public deficit, your money-type policies. We are concerned because we are your neighbors and we receive the repercussions and the consequences of these policies. Because these policies have an impact on the opportunities we have to import and to export to the United States, the implications it has in our own employment and unemployment structure, inflation, interest rates, and capital flow.

I think you should be concerned because if we are not capable of exporting our industrial products to the United States or exporting our agricultural products, we are not able to buy these exports to generate the wealth that we should and to increase employment and diminish inflation, and reduce migration



to the United States. Therefore, the result is going to be social unrest.

Sometimes in this country some people seem to ignore this interrelationship that I just mentioned and instead, they nurture misinformation and produce other misstatements about Mexico.

These other misstatements sometimes take advantage of the good faith of the North American people and they disseminate the version that Mexico is a nation that is almost going without government, incapable of governing itself or even worse, that we are on the verge of a collapse without showing the historical evidence that our institutions are strong and are based on very strong principles that are the result of the Mexican Revolution and are expressed in our constitutional experience and also are expressed in the words of President de la Madrid.

There are people in the United States that, with no foundation, interpret some of the measures taken by the Mexican government as socialist. These measures are alien to our own experience, and these statements produce misunderstanding of our intentions.

These people that spread notions based on prejudice are the basis of misunderstanding about what is going on in Mexico. They criticize the Mexican experience and the Mexican leadership, but at the same time, they accept the capital that is flowing from Mexico. That is not criticized, in spite of the impact of decapitalization that we are experiencing because of negative capital flow, which limits the ability to generate enough jobs

that we are needing, and at the same time, they support elements of discord in our country that are based on the exaggeration of a climate of insecurity in our country, particularly statements about insecurity that affect the possibilities of tourism. This is something that is affecting our economy very much and we are very much concerned about any misunderstanding that is reflected in the mood of the tourist that might come to Mexico. This is something that is going to create increasing problems for us and also increasing problems for our mutual interdependence.

This is why, my friends, I feel the opportunity that you have given me to appear in this forum is so important in order to express our disagreement with these absurd representations of the Mexican experience. Mexico is not defeated. Mexico is not on its knees.

Our friends know in the United States that Mexico has experienced more than seven decades of political stability with a political regime that warrants today a degree of freedom that is rare to find in many countries in the world and with economic development that continues the process of development of the country. Our friends, do not ignore that Mexico is a country that is rich in natural resources and is rich in human resources. We have energy in abundance, we have minerals, we have three million square kilometers of rich sea, rich in fishery and rich in natural beauty. They are an attraction for tourism. We also have an oil industry, but above all, we have a population that is characteristically able to give everything to this country as they demonstrated recently in Mexico City. You know better than

anybody else, because we are neighbors, that we have a global mission that will enable us to find our place in a better world.

I'm not talking about the future of Mexico only. What I'm trying to discuss here is the future of an interplay in the world and from this interplay, certainly, the United States is not excluded. It is a very integral part of this interplay. This is the reason why that we should not follow unilateral decisions to problems that demand a plural analysis.

There is a tremendous coincidence between the long-term interest between Mexico and the United States. The interest is in our search for development, well-being and mostly for social peace.

In this sentiment, it's implicit that we are talking about the destiny of the migrant workers and we are talking about a search for an intelligent, bilateral approach to this question. For us Mexicans, the immediate way is to confront those interests against a healthy relationship between Mexico and the United States and against the trust and against the political stability.

Mexico is a country of principles that should not be confused with rhetorical phrases. I hope that the great democracy that is North America could understand this aspect of our reality and could accept that your own permanent interests should prevail over the interests of those that have been creating statements that are misleading in regard to our own experience, that are shortsighted, and that have profited from these misunderstandings by creating circumstances that can only be understood from their own selfish interests against the interests of Mexico.

Madame Chairwoman, I would like to state that these kinds of events, such as the one to which you have invited me, that allow communication among North American legislators and Mexican legislators should be and must be the beginning of a new epoch, a new time in the history of our relations as good neighbors and as friends that are sharing common realities. As legislators, we should maintain a more constructive dialogue. Otherwise, we have not fulfilled the obligations and the responsibilities we share to reinforce our respective democracies. The only way that we could maintain these relationships is if we are willing and able to plan the basis for a better understanding, a fairer understanding that is based on a durable peace. I welcome this new era and I welcome the opportunity that you have given me to participate in this dialogue that I hope to maintain for the benefit of our mutual countries. Thank you very much.

CHAIRWOMAN WRIGHT: Senator, I am so pleased that you have come here today. I would now like to introduce some of the Members who have come in while you were speaking, then I would ask if you would be willing to answer some questions, with the full understanding that they would be basically your personal answers and not necessarily a representation of your country.

I have here on my right, Assemblyman Tom Bane and on my left, Assemblyman Sam Farr and Assemblyman Stan Statham.

Now, I would like to ask one question and then I would like to have the other members of the panel ask questions. In his remarks, Dr. Bustamante said that your basic policy is that

you do not wish to export people, but rather you wish to export products. What has your country been able to do in reference to that kind of a policy? Have you been able to do anything to keep more of your people at home?

SENATOR RAMIREZ: Undoubtedly we would like to depart from the notion that Mexico is experiencing a very difficult situation right now legislatively and we are concerned that some of the mostly young people that represent the labor force, represent resources in our country, are abandoning the country through the process of migration. This is not the policy of my government.

CHAIRWOMAN WRIGHT: Wouldn't you feel, and I want to be careful how I say this because I do not want to insult you or hurt your feelings, but would you feel insulted if the United States, either as a nation or companies within the United States, wished to help or invest in your nation?

SENATOR RAMIREZ: Of course not, because there is a whole policy of promoting foreign investment in my country. We don't reject that. We promote foreign investment. According to the constitution of Mexico, foreign investment is welcome. At this moment, foreign investment is quite considerable in Mexico. Our problem has been capital flight from Mexico. We need this capital to produce employment for those people that are leaving. The ideal is that our country become an exporter country because this is what generates the currency, currency to pay foreign debt, and that is one of the (inaudible) that characterizes the current policies of Mexico, among others.

CHAIRWOMAN WRIGHT: Thank you. Assemblyman Farr, do you wish to ask some questions of the Senator?

ASSEMBLYMAN FARR: Thank you very much, Madame Chair.  
(Mr. Farr speaking in Spanish.)

CHAIRWOMAN WRIGHT: Just a minute, I need a translator.  
(laughter).

ASSEMBLYMAN FARR: I just welcomed him to the Capitol.  
(more Spanish by Mr. Farr.)

SENATOR RAMIREZ: For a long time, we had a mutual agreement on braceros. The problem was that this agreement was not fulfilled. That was a (inaudible) experience about that agreement. The most important aspect for us was the fair treatment for the workers. Going against the will of our two governments, they recruited people outside of the agreement. And this was what created this flow of undocumented migrants that has reached our times. To find a response now would imply a very deep and profound analysis. There have been previous analyses of these questions that have failed because this is a very complex phenomenon, because these analyses have been made only from one of its parts. This is the reason why I salute the California Legislature for this opportunity of dealing with this in a way that takes into account the two parts, the two parties in this question and that's the reason why I have thanked you for this opportunity, because I consider it very important in the way that we should continue in dealing with this question.

An agreement about migrant workers is something that we should consider very carefully because it is very complex. We

should analyze and discuss the economic and the social implications for the two countries in regard to this migratory flow. From my personal point of view, the important part is the political wheel that we can find in our two countries in order to reach bilateral agreements. We should go far away from the notion that these migrants are criminals because they are workers and that is the way the problem should be addressed.

ASSEMBLYMAN FARR: Gracias.

CHAIRWOMAN WRIGHT: Mr. Johnson?

ASSEMBLYMAN JOHNSON: Senator Ramirez, first of all, I would like to add my thanks for your expression of a need for an intelligent bilateral approach to the solutions to these problems and to indicate that I sincerely agree with that statement. I also appreciate your expression of the reality of the long term commonality of interest between our two great nations. Having said that, I hope you will understand what I am about to say. It seems to me that you have been somewhat easy on the Republic of Mexico and, perhaps, somewhat over harsh in some of your expressions concerning the United States when you use terms such as "racism" and "religious bigotry" and "a lack of respect and denial of human rights." Acting out of pure economic interests, these are strong expressions. It is certainly true that people in the United States, both elected officials and others, occasionally for less than honorable purposes exploit the feelings of hostility. But it is equally true that there are political figures and others in Mexico who frequently use the United States as a whipping boy and as an explanation of all the

difficulties faced by Mexico. I think that those realities have to be addressed, as well. Again, I hope that you understand the context in which I make these observations. I again appreciate most sincerely your expressions of a need for an intelligent bilateral approach, but that analysis that you called for requires us to be equally candid about the political realities in both of our nations. Frankly, I think a very legitimate case can be made that the so-called undocumented workers from Mexico in this country are, in many instances, voting with their feet.

SENATOR RAMIREZ: Assemblyman Johnson. When I accepted the invitation of this committee to participate in this interesting dialog, I thought that this dialogue should be based on a very strong candidness as friends usually speak otherwise it would be worthless, any kind of an artificial dialogue, particularly among ourselves as legislators. As representatives, we are from our own peoples. When I refer to hostile attitudes, I was not involving the whole country of the United States that a thousand times has demonstrated its support for the country of Mexico. Particularly, I have been impressed from the positive attitude that the people of California have taken in view of the presence of undocumented immigrants. I know they have received in California full respect to their labor rights. I assure you that inside of Mexico I have been a severe critic of the attitudes that harm the rights of the workers in Mexico or those deviations in politics that are against the interest of the working force in Mexico.



The Mexican Senate created a committee of public hearings on migrant workers that I had the honor of presiding, precisely to understand and study more profoundly these migratory questions, both the internal migration and the phenomenon of those that cross the border. And, believe me, the general intention of Mexicans is to create in their own country enough jobs for our people in order for them to stay in our own country. When I say that some people in the United States have created this information about Mexico, it is because we have heard of this in Mexico and we are concerned that as neighboring countries we want to strengthen our ties of friendship and of good neighbors. In a climate of mutual respect and equality, we know very well in Mexico what the United States represents for us. It is the most powerful country in the world, economically speaking. What happens in the United States necessarily affects us in Mexico. With resources or without them, you don't allow the import of Mexican products in the United States. Thousands of producers and thousands of workers suffer the consequences of that.

Mexico has very precise policies, which are the products of both a constitution and revolutionary struggle. My country, as your country, is a country of a very profound sense of dignity and a profound sense of (inaudible).

We are living difficult moments but we are struggling forcefully to overcome our problems. Why not try to overcome the misinformation that exists in the United States about what we are in order to make you understand that adversity is not going to

defeat us because now we are trying to make ourselves aware of our own mistakes and to correct them.

ASSEMBLYMAN JOHNSON: The only additional point that I would try to make is that the opportunities for misperceptions run both ways, and it is equally as possible, in my view, for there to be misperceptions of the people of the United States in Mexico as there are for misperceptions of Mexico in this country, and there are individuals on both sides of the border, both in and out of public office, who have, it seems to me, a narrow interest in promoting those misconceptions. That was my main point.

CHAIRWOMAN WRIGHT: Mr. Bane. Did you wish to ask any questions?

ASSEMBLYMAN TOM BANE: Does Mexico allow American citizens to own property in Mexico?

SENATOR RAMIREZ: Yes.

CHAIRWOMAN WRIGHT: I want to thank the Senator. I would hope that he would stay as long as possible today for we do have Congressman Lungren coming in around 3:00 p.m. to make a presentation on the immigration bills that are before both houses of Congress. If you have never had the opportunity to give some of your feelings to representatives in Washington, I would hope you would have this opportunity. I also extend from this committee friendship to you and your legislature. I thank you.

SENATOR RAMIREZ: Thank you, Madam Chairman.

CHAIRWOMAN WRIGHT: Are Drs. Morales and Mines here? Fine. Would you please come forward? Dr. Morales.

DR. REBECCA MORALES: Thank you. I am a professor at UCLA in the Graduate School of Architecture and Urban Planning where I teach courses in urban and regional economic development. In the process of my research, which is primarily concerned with industrial change in the United States, I have had the opportunity to conduct surveys of labor unions to understand how they are responding to the industrial change and also accommodating the new immigrants in the Los Angeles area. I am going to address my remarks to the latter.

It is commonly assumed that undocumented workers resist unionization out of the fear of being discovered, and, as a result, are undermining organized labor. My research on union responses to new immigrants in Los Angeles indicates that this impression reflects a misunderstanding of the situation. Although undocumented workers require considerations not associated with the average worker, Los Angeles unions have arrived at creative solutions and are successfully organizing them. In my remarks, I would like to address the issues surrounding this topic and briefly examine their implications for improving immigration policy.

The challenge to labor unions posed by undocumented workers in Los Angeles is significant. According to a recent Urban Institute report, between 1970 and 1980 undocumented immigrants comprised 64 percent of the county's new immigrant population for a total of 566,000 persons. This is over half the number of undocumented persons they estimated for the entire state. In light of the 1980 U.S. census figures, which suggest

that approximately half of all undocumented persons in the nation reside in California, the magnitude of their impact on the Los Angeles labor market is greater than elsewhere in the country. (I would like to let you know, by the way, that the figures that I am using and the ones that follow are contained in the Los Angeles Labor Council report "Immigration and Jobs in Los Angeles County: Current Impacts, Future Trends," June 1985.)

Nationally, the percentage of unionized workers has been on the decrease, and Los Angeles, as you well know, is no exception. From a rate of 30 percent unionization of the labor force in 1971, the Los Angeles figure dropped to approximately 21 percent by 1983. The service sector realized the greatest increase in employment in the last decade, but it has the lowest amount of unionization at 3 percent. Trends in the economy suggest further shifts from highly unionized sectors, such as manufacturing, to service, trade, and other largely unorganized segments of the economy. Clearly it is difficult to estimate how many undocumented workers are unionized, but they appear to be concentrated in services, light manufacturing, and retail commerce, sectors that are generally unorganized both within Los Angeles and the nation as a whole.

A survey of four unions in the Los Angeles area during 1983 revealed several strategies for organizing and protecting immigrant and undocumented workers. The most common were the use of bilingual organizers, the translation of contracts into the native language of workers, and the use of translators at general meetings. Language is a critical issue here. All too

frequently, a union will confront a situation where several languages prevail at a worksite, so an experiment proposed by the Los Angeles-Orange Counties Organizing Committee (AFL-CIO) consists of making bilingual labor representatives available to be shared by several locals. (I'll point out that this, of course, is something they are considering for all immigrants, and they are not necessarily singling this out as a particular issue for undocumented workers.) For the explicit purpose of protecting undocumented workers, some unions have entered into informal agreements with employers stating that in the event of a workplace raid by the Immigration and Naturalization Service (INS), the employer will contact the local. In this way, a union representative can be sent to observe the activity and provide legal counsel. An even stronger form of protection consists of contract language that provides liberal leaves of absence for workers who have been detained by INS, or that specify the role of the employer in the event of a raid. For example, one contract specifies that the company will notify the union whenever an INS agent comes to the plant; refuse to admit any INS agents lacking valid warrants; refuse to reveal the names, addresses or immigration status of any employees unless required to do so by law; reinstate any employee who has been absent due to INS proceedings and returned to work within seven days; and recognize any worker...

CHAIRWOMAN WRIGHT: Excuse me. Assemblyman Farr.

ASSEMBLYMAN FARR: I have a question. Are you saying that the unions...

DR. MORALES: This is in the contract.

ASSEMBLYMAN FARR: It is in the contract, but are the unions supporting the employment of undocumented workers? It sounds like there has been a mutual agreement here to have the unions support, or at least defend, the hiring of undocumented workers.

DR. MORALES: I think that what it is suggesting is that unions are willing to treat these workers as if they have rights as workers, unless there are changes in the law that say otherwise, and are fighting it to have statements in their contracts that protect these workers rights. This does not say that. There is nothing in this language that says that the employer should engage in anything that is illegal. It says that the employer, for example, should refuse to admit any INS agents without a valid warrant.

ASSEMBLYMAN FARR: So these workers are union members.

DR. MORALES: Yes, they are.

ASSEMBLYMAN FARR: And they are being paid union scale wages.

DR. MORALES: If the wages of the union are prevailing wages, they'd be at the prevailing rate. If they are above scale, they would be whatever that would be.

Do you want me to continue?

ASSEMBLYMAN FARR: Yes. I was trying to follow what the role the union is playing in this.

CHAIRWOMAN WRIGHT: I would like to follow up on that, because what my concern would be... It seems very interesting

that if the unions are basically having a drive for new membership, and they are taking it from the undocumented worker. They seem to be interested in that end, but they don't seem to want to take any of the responsibility if these undocumented workers do not have the proper living facilities, or are not being cared for properly. That bothers me.

DR. MORALES: (Inaudible) would the union be responsible for their living facilities?

CHAIRWOMAN WRIGHT: Well, I think if they are interested to the point where they want to have them join the union, and they want to ensure that they get a prevailing wage or whatever contract wage is. When we hear situations about how mistreated these workers are in regards to living quarters and that, it seems very strange that the unions haven't come forward and tried to alleviate that in part of their negotiations.

DR. MORALES: First of all, we are talking about the urban arena, so it is not exactly the same as in agriculture.

CHAIRWOMAN WRIGHT: In other words, you're saying that your study has not dealt in any way with the agriculture.

DR. MORALES: No. No.

CHAIRWOMAN WRIGHT: Okay.

DR. MORALES: It is strictly urban. It is services and manufacturing. In most cases, contracts do not deal with workers' living conditions.

ASSEMBLYMAN FARR: If I could back to my question, I am not understanding the logic of how... first of all, I would think that the employer's interest of having undocumented workers would

be that you could get them for lower than... I mean you could get cheap labor and lower than prevailing rates. What you are saying is that, and I guess I am trying to find out how do the undocumented workers become union members. Is it that the plants that they are working in are unionized and they are "grandfathered" in?

DR. MORALES: Not necessarily. What I am suggesting is that Los Angeles is becoming a major point of entry for immigrants. Union leaders often cannot distinguish between who has been documented and who is simply an immigrant, and they are trying to find ways of protecting workers without necessarily knowing the distinction. In many cases, when I would talk to these union leaders, they couldn't tell me necessarily the exact breakdown of what they thought would be the number of their workers who could be undocumented or not. They knew that they had to organize immigrants and that some of them could be undocumented.

The information that I was reading to you regarding the contract is not necessarily widely held. This is somewhat of an extreme, but I thought that you would be interested in knowing the various responses that have been unions, this being only the case in one union.

ASSEMBLYMAN FARR: Well, I think it is a smart response from both of the union standpoint and the employer's standpoint, but what have you found regarding the issue within the union -- the struggle of unionizing undocumented workers or finding jobs for undocumented workers versus immigrants. That has been a ten year struggle in Sacramento.



DR. MORALES: As I pointed out to you, it is very difficult for people to know the status of the workers.

ASSEMBLYMAN FARR: Whose responsibility should that be?

DR. MORALES: To know the status of the...

ASSEMBLYMAN FARR: Yes. In your discussion, where do you break that down? You go to a plant, you have so many workers that are going to work there, and you sign a contract, that you just suggested. I mean we always put the blame that the employer ought to know that. And it seems to me that if you're labor contractor and you are providing a team of people to work, perhaps it ought to fall with you. It seems to me that there's always a debate -- at least I have heard it for ten years in Sacramento -- that we're displacing immigrants with undocumented workers.

DR. MORALES: I don't believe that the number of immigrant workers, or the jobs that they are holding, is the responsibility, or is caused by unions, who may be making an effort to organize workers regardless of their immigration status.

The change is in economic conditions. That means that the changing demand for different types of labor has much to do with why people are employed in the jobs that they are holding. I think the fact that unions are making an effort to organize people, despite the fact that there has been a tremendous decline in organized workers, means that they have to be creative and understand the type of workers that there are now.

ASSEMBLYMAN FARR: I am not so sure I agree with you. I am a strong supporter of labor, but I think we could argue that you can just as easily take advantage of an undocumented worker who wants a job by being a union organizer as you can by being an employer who just wants cheap labor. I think the undocumented worker is a victim. Oftentimes, yes, they do have a job and an income, but they can be taken advantage, in both cases.

DR. MORALES: Taken advantage of by union?

ASSEMBLYMAN FARR: Yes.

DR. MORALES: In what respect?

ASSEMBLYMAN FARR: Membership in the union. The fact that the union can get them a job and give them the kind of cover, that you pointed out, in the contract that they would not otherwise get.

DR. MORALES: This is not a cover. The things that are written in this contract are not illegal.

ASSEMBLYMAN FARR: I understand that. It is more protection for an undocumented worker. What I meant by cover is an umbrella of at least the union strength to help the undocumented worker if there is a raid, etc.

DR. MORALES: That's right. In part one could see this as something that unions might be concerned with. In cases where employers do call in the INS, if there has been some kind of union activities, they call in the INS because they suspect that union activists could be undocumented, then it is very disruptive. For some unions, this type of activity is something that they would want to counter against.

ASSEMBLYMAN FARR: Well, we're going to hear from union organizers later on. I'm interested in your study, which I presume that's what you're giving us, in order to draw some conclusions as to what should be done?

DR. MORALES: I will go on and tell you what else I found if you'd like for me to do that now.

CHAIRWOMAN WRIGHT: Excuse me just a moment, Mr. Bane?

ASSEMBLYMAN BANE: I presume one of the reasons that the unions organize the undocumented worker is to prevent the undocumented worker from working for less than the other union members receive.

DR. MORALES: I think you're exactly correct. What is important to understand is that through unionization we would hope to find less exploitation of these workers at the workplace and perhaps even a change in conditions that would make the employment of undocumented workers less attractive.

CHAIRWOMAN WRIGHT: I guess one of the things we're hearing from union representatives is that undocumented workers are taking jobs away from other members of their organizations and so here it seems like it's a conflict within their own organization.

DR. MORALES: I would submit that the situation is very heterogeneous and that as long as we're seeing some extremely interesting changes going on in our economy, we are going to see some changes in the type of employment and the people who are employed in certain sectors. We will see some definite changes, I think, in the type of skills that are needed in some of the

sectors that had previously been considered high wage or high skilled. We're seeing a complete reorganization of production processes and so, in fact, I'm not surprised that some unions would see their membership change from male employees to female in just a matter of a few years. There have been changes in certain immigrant groups, from Mexicans to Vietnamese and Korean. There's a tremendous amount of flux going on here and if one does not necessarily spend the time to really analyze the structure of the economy, then what you look at are the appearances and that may be what the response is to there. I'll proceed if there are no more questions.

And yet another vein, some unions have been willing to bring issues affecting undocumented workers to arbitration or litigation in order to clarify their rights. The efforts of unions would clearly be facilitated if labor legislation were better enforced. In the fall of 1980, the Notre Dame University Law School, Center for the Study of Human Rights, suggested ways that existing state and federal legislation could be modified to facilitate the organization and protection of all undocumented workers. Federal examples include a more vigorous enforcement of the Fair Labor Standards Act, the National Labor Relations Act, the Occupational Safety and Health Act and the Income Tax Withholding and Federal Unemployment Tax Act.

A serious examination of California legislation should yield an equally impressive list. As noted in this study, to focus on the firing of undocumented workers, rather than on wages, hours, working conditions and the right to organize, is to

confuse priorities. If enforcement were effectively guided by current labor law, the benefits would accrue to the total U.S. labor force.

Proper enforcement would reduce the assumed extra attraction of undocumented migrants to unscrupulous employers and that's the part that I had mentioned previously where, I think, in fact, the process of unionization may change conditions considerably.

An even more comprehensive approach for dealing with undocumented workers has been adopted by the Arizona Farm Workers Union. They have initiated an economic development program supported by worker and employer contributions combined with grants and loans. The purpose is to stabilize the employment conditions in the home communities located in Mexico from which many workers migrate on a seasonal basis.

From 1979 to the present, the program has grown to become a \$7 million operation. It has put in place over 100 water projects resulting in 4,500 acres of peach trees being brought into productive capacity. In addition, they started chicken, pig and carpenter cooperatives, a tortilla factory, consumer cooperatives, several bee cooperatives, a warehouse operation, and have purchased trucks for carrying the products to major Mexican markets.

ASSEMBLYMAN FARR: Have they done that in Arizona or Mexico?

DR. MORALES: What they did was, they started out at ten cents an hour per worker, it's now up to twenty cents per hour

per worker, through the contract contributions from the worker and from the grower and they have received money from foundations, from the Inter-American Development Bank and other places. They have used this money now to develop these communities in Mexico.

ASSEMBLYMAN FARR: Okay.

DR. MORALES: It is hoped that the push towards migration will be diminished. Essentially, what they are trying to do is economic development in Mexico so that the people no longer have a need to migrate.

As these initiatives by labor unions illustrate, undocumented workers are not the sole or perhaps even the primary cause of eroding labor conditions in the Los Angeles region. Aggressive organizing, coupled with better enforcement of existing labor laws and well designed economic development programs go a long way towards addressing many integration issues in less restrictive ways that would result in the proposed immigration legislation.

I think it is important, also, to point out in my closing that we can see that the undocumented workers can in fact be organized, and that it's a myth to think that they are unorganizable. It may take special effort on the part of the union, but clearly they have been organized and second, that of these unions I'm describing, they are treating these workers as workers that have rights to be organized, and I think that this is an important distinction than what you might find elsewhere across the country. Do you have any other questions?

ASSEMBLYMAN FARR: Is that the only example that you have of reinvestment in Mexico is the...

DR. MORALES: Yes, it is.

ASSEMBLYMAN FARR: Nothing in the urban sector where your study was done, only in a rural area?

DR. MORALES: That's right. This is actually very difficult. It took them a number of years to find out the migratory patterns of the workers that they were working with. It is much easier in agriculture where whole communities might migrate jointly. It's much harder in the urban arena where it's dispersed and requires a much more concerted bilateral effort. It's much harder for a union to undertake this kind of activity.

CHAIRWOMAN WRIGHT: Mr. Bane.

ASSEMBLYMAN BANE: The Senator from Mexico informed me that American citizens can own property in Mexico. I had been led to believe over the years that that was not accurate; that I could not go down to Mexico and establish a business, buy some property and set up a manufacturing plant, was he right? What do you know about that subject?

DR. MORALES: My knowledge is not definitive. My understanding is that there are parts of the country where American citizens can obtain long-term leases and there are other parts of the country where they can, in fact, purchase land.

ASSEMBLYMAN BANE: They have purchase land?

CHAIRWOMAN WRIGHT: It's on a state-by-state basis, rather than a national policy.

DR. MORALES: That's right.

ASSEMBLYMAN FARR: It's a long-term lease, just like those apartments are across the street that the state built. You've got a 40 year lease on it.

CHAIRWOMAN WRIGHT: Dr. Mines?

DR. RICHARD MINES: Thank you for inviting me. I'm glad to share my thoughts. I'm a private labor economist. I've recently taken a job teaching high school in an immigrant bilingual program in Oakland. But since about 1977, I studied full-time, analyzed full-time, the impact of Mexican immigrants on California labor markets. I spent most of my time talking to employers, workers, foremen and union officials, and I'd like to share with you what I learned from these individuals.

For me, the most interesting question is the displacement question. Put crudely, are foreigners displacing U.S. born workers and driving down their wages? But in order to answer this question I have to dispose of another one first, namely, are immigrants working in segmented labor markets, separated from those in which the U.S. born work? The answer, like to most questions, is yes and no. For example, in many local labor markets in California, like citrus picking, construction cleanup, frozen food packing, there are practically no U.S. born and there hasn't been for some time, but in hotel work, janitorial services and roofing, for example, the answer is no. The immigrants and the U.S. born usually work in the same labor markets. But despite the fact that they often work in the same labor markets, my first reaction if you asked me, is there any displacement, is no. Why? First, because in none of these



labor markets have I seen immigrants coming in one door and the U.S. born going out the other. And second, because probably there's not any displacement on balance in the whole economy. Nationwide studies show that immigration probably creates more jobs on balance than it removes, certainly the opposite hasn't been proven.

However, if you change the questions slightly and ask me if employers are abandoning veteran workers, both U.S. born and recent immigrants, my answer would be yes. I'm trying to be careful in my language here. I'm not blaming the immigrants who are not consciously displacing anyone, instead I'm shifting the burden to certain employers, and I would stress that most employers do not do this, but some employers do use the strategy of abandonment of workers to hold down their labor costs.

Your next question probably is, can I prove these assertions? Where have employers abandoned workers? I can prove it only by examples where I have observed it happening. It can't be proved by any statistics that are currently available. Let me give you three examples.

First, in Ventura County citrus where I did a study in the late '70s and early '80s, the employers deliberately shifted from unionized harvesting associations to farm labor contractors. The workers in the harvesting associations were mostly settled and legal Mexican immigrants. The workers in the farm labor contractor crews were mostly young newly arrived Mexican immigrants. The abandoned workers either had to get out of citrus picking or accept lower wages and fewer benefits.

Another example, last year at Mission Foods tortilla factory in Richmond, California, the factory decided to lower its wages by 40%. They had used an Hispanic floor manager to recruit ample strike breakers from just two or three villages in (inaudible). I even noted the names of the villages (inaudible) and they used these networks of people to break the strike despite an eight months struggle by the workers. The abandoned workers were settled Mexican women who had been here ten and twenty years, had children in schools, houses and could not live on the new wage which was just above the minimum wage. The replacements were mostly young Mexican men, just arrived from Mexico.

Third, in Los Angeles, as recently as 1982, a large part of the janitorial force in high rise office districts was made up of Black Americans. They are mostly working for Local 399 of the Service Employees International Union. But in the early 1980's employers shifted to new contractors who had tapped into networks of recent immigrants. Wages fell from about \$13 an hour, including benefits, to just over minimum wage. Even in the unionized firms, if you talked to the local down there, Local 339, they concede openly that the janitorial union in L.A. has all but collapsed.

ASSEMBLYMAN FARR: Is that because the union chose to join them or, I mean, it seems like what you've both been saying is that you can't beat the undocumented, so let's just join them and unionize them, and we'll do that....

DR. MINES: No, what I'm saying is that the employers, the owners of the office buildings in this case, made a calculated decision to change from one contractor to another. One contractor is a unionized contractor that pays union scale and they say when the contract goes out, they switch to another contractor and make an institutional change to another guy and that guy brings in people that are willing ...

ASSEMBLYMAN FARR: So it was a non-union contract...

DR. MINES: And then it puts so much pressure on the union that they were unable to hold. They fought very hard for many years, but they were unable to hold the scale up very high, in fact, it's just above minimum wage.

ASSEMBLYMAN FARR: Well, what is it now, is it still a non-union contractor?

DR. MINES: We're talking about three, four, five thousand janitors. There's probably around 350 to 500 people still being paid good union scale in L.A., the rest have been lowered to a reduced scale.

The 1500 to 2000 Black janitors who knew nothing but janitorial work are unemployed and few can find other work. There are many other examples of this that's going on all over the place. Frozen food workers in Watsonville, construction cleanup workers in Orange County, janitorial in San Jose. At all these job sites, employers are abandoning their veteran workers, their older workers for more recent immigrants.

The main point here is that although nationwide, immigration may have created more jobs than it is removing, this

does not help certain abandoned workers who I think need special treatment, special attention that they aren't getting. When they are displaced by a trade, they do get special treatment. When they are abandoned by employers, they are not given special treatment. The complimentary jobs are for bookkeepers, salesmen, transportation and other positions which abandoned workers may not have access to.

But again, I will emphasize that I am not blaming the immigrants that take the low skill jobs.

CHAIRWOMAN WRIGHT: Then would it be safe to say that you could support sanctions against ...

DR. MINES: Employers?

CHAIRWOMAN WRIGHT: Yes.

DR. MINES: I oppose the immigration reform that is being considered in Washington right now. I'm going to get to that, but I'd rather answer that after you hear my whole presentation.

CHAIRWOMAN WRIGHT: Okay, fine.

DR. MINES: It is only the recent immigrants who can be utilized by employers to hold down labor costs. Again and again, we have seen veteran immigrants fighting to protect their job-site rights. You have to make the distinction here between veteran immigrants and people just across the border, I think. You've got to make the distinction in your mind if you are going to understand the effect on labor markets, the effect on labor unions. If you don't make the distinctions, it's very difficult to understand the situation.

The deterioration of labor markets in the low skill unionized sector is a complex historical process and immigration is just one of many contributing factors. Other factors are non-immigration factors including, anti-labor appointments to the NLRA and the ARLA, poor leadership in some labor unions, poor and misguided enforcement of the minimum labor standards and immigration law, and, of course, increased foreign competition in tradeable goods.

But despite these other factors, I will stress that no policy regarding Mexican immigration can be successful if we're not clear about the special relationship of certain employers and networks of recent immigrants.

There is emerging a system of utilization of the immigrants which I consider contrary to either the interests of California or Mexico. I call it the Immigrant Network Hispanic Leadman System. How does the system work, and what is the structure? First we have to recognize that there are many hundreds of job-seeking networks from (inaudible) in Mexico that are continuously replenishing labor markets in the United States. Most of these networks are mature and are able to place their members in good jobs and protect them in the competitive labor market. But others are recently formed or immature networks that depend on self-interested Hispanic middlemen to find their jobs.

And all the newcomer immigrants are a minority of all immigrants. I would think probably one in five and here I really disagree with everybody who says that Mexican migration is temporary. Forty percent of the Italians went back to Italy and

I don't think it's that much higher among the Mexicans. It's higher, but there are many, many at any given moment in California. I think that most Mexican nationals, undocumented and documented, have been here for quite a while which means that they are not that hard to organize by unions, but the one in five, the 20%, really can soften certain labor markets and that's my concern here today.

These networks can help or hurt work organizations depending on how dependent the employer is on one network. If the employer feels he has options, if he can use one network against the other, then he can lower labor costs. As one hotel manager said to a worker, "If you don't want to work here, you and your whole family can leave. Just get out. I'll bring in a new network of people."

The system functions efficiently because of the availability in California of Hispanic middlemen or leadmen, but mostly Anglo employers cannot communicate with the recent immigrant directly because of the language barrier. Also, the middlemen often make contacts with several networks at the same time, as I just said. Middlemen can take care of hiring, training, supervising, disciplining, firing, and in a question that was raised earlier, even housing of workers. As one floor manager in a furniture factory in L.A. told me, "I am the middleman. I get the workers to do what the boss wants." The middleman can keep wages at the minimum or near the minimum by shifting them on several networks, but again, I have to stress that the Hispanic middleman system represents only potential for

lowering labor costs, but in most cases in immigrant dominant areas, wages are above the minimum. Most immigrants are not recently arrived, and most veteran immigrants resist the system.

I have found that outside agriculture where the special conditions that a distinct minority of employers use the strategy of holding down their wages to the absolute minimum by playing off one network against the other. Again, but for the individuals involved who are being abandoned by employers the averages are not important.

Now a word about employer attitudes. Where the Hispanic leadman system has taken root, the employer attitudes have shifted. About four months ago, I read through 150 employer interviews that we did in a survey out of U.C. San Diego and I found that almost universally, employers prefer immigrants. This is a serious problem if we're going to have an effective law. Employers prefer immigrants. One employer of a large textile plant in L.A. stated, "Mexicans are more quiet and passive. Not like the Chicanos. They are a very proud people and if you can reach that pride you can motivate them to work very hard. One in a hundred is ambitious and advances. The rest are sincerely interested in making a living."

Another comment by a giftware manufacturer in L.A. sums up the view of a lot of employers, "The work ethic in America has changed and it's not there in the U.S. born worker. They don't want to work for minimum wage, whereas our product dictates that our operations be at \$3.35 an hour. Mexican workers are hungry where \$3.35 means something to them."

There's no doubt that the very recently arrived immigrants have some qualities that some employers prefer, we may as well be honest about it. They have a high propensity to stay on a given job, they are willing to work for low wages and if employers understand how to tap into several networks at the same time, the supply of workers can be very plentiful. I think there is an excess supply of workers in many labor markets in California.

Most employers prefer a stable workforce which they can train and invest in, but some employers have adopted the attitude that only newcomer immigrants can do the work at the right cost. It seems to me that no matter what policies are passed, so long as employers have these attitudes, it will be difficult to change their behavior.

Let me mention one additional finding. It seems to me that adjustments to immigrants are happening within the industrial sectors, as Dr. Bustamante mentioned earlier, mainly because entrepreneurs competing in a given product market are struggling over who can lower his labor costs the most. Since government does not deal with labor on a sector by sector basis, the policy can be self-defeating or counterproductive.

Let me explain this with an example. If we look at the janitorial contracting firms in San Jose or Los Angeles, we find some large unionized firms with mostly legal and settled workers and small nonunion firms hiring mostly recently immigrated workers. All these firms are competing for contracts to survive in the same product market and create jobs for their employees.



Now, the INS, as a matter of policy, raids the higher paying unionized firms and leaves the smaller ones alone. The stated goal of INS is to open up higher paying jobs for the U.S. born, but the effect is to harass the larger firms who then lose contracts to the smaller firms. The smaller firms hire more undocumented workers, workers in the larger firms lose jobs to illegal workers. Public policy is shooting itself in the foot.

If the INS and other agencies could analyze and enforce priorities on a sectorial basis, then they could perhaps choose among competing firms and harass the real violators of labor and immigration laws, and by so doing, favor the survival of employers who provide better labor conditions and higher legal workers.

ASSEMBLYMAN FARR: So your suggestion is that INS become network busters, rather than just individual busters?

DR. MINES: I'm suggesting that they should analyze, they should have analysts that tell them how to write their regulations so they can be more effective instead of counterproductive, which I think they are.

ASSEMBLYMAN FARR: But isn't the theme of your study and remarks that as long as you have these networks that are able to move in and counterplay off one another and just keep pressure so that the wages essentially stay low, isn't the real heart of the problem then to bust or break up those networks to be able to do that?

DR. MINES: From my point of view, the heart of the problem is to limit employers from taking advantage of the

Hispanic leadmen network system. I don't see how you could possibly regulate the networks, there's hundreds of networks.

ASSEMBLYMAN FARR: (Multiple voices) regulate networks, because I don't know how you'd do it. How do you get in there and bust up the leadmen?

DR. MINES: I think that public policy should hold the employer responsible for the behavior of their middlemen.

ASSEMBLYMAN FARR: You just said the employer can't speak the language, doesn't know what goes on and so they go to these middlemen who are bilingual and who know clever people, know all the ins and outs.

DR. MINES: I'm not a policymaker, but how would you regulate a group of, let's say, 10,000 Hispanic leadmen in California?

ASSEMBLYMAN FARR: I'm not sure, that's why I asked you, but I really don't think that the response is that you have to put it back on the employer, we've been saying that. We certainly have some of those polices. Probably we don't do much about it.

DR. MINES: There was one law passed to help that problem but the Governor vetoed it. I'll now jump ahead to my conclusions. It seems to me that you have to concentrate your enforcement on inspection rather than compliance, because the nature of these networks where the real abuses are, and abuses are not the majority of the cases, I'm not saying that this is in most labor markets that people are being stepped on, but there is a large enough proportion that really disturbs me and it's

deteriorating and so it's really disturbing to me. I think that you have government agencies, Cal/OSHA, minimum labor standards, and I think INS perhaps could be one of these, but they have to focus on the places where the abuses are really happening and you can't base it on complainants because workers are not going to complain to their middleman who is fairly well paid relative to them. He's not going to complain to them, and so you're never going to find where the real abuses are by a complaint system. You're only going to (inaudible) where the unions are, where people are taught how to complain. You might get some action, but what's also needed, you're not...

ASSEMBLYMAN FARR: Well, you've got two different issues, though, one is the issue of safety in the workplace and the other is the issue of union busting, which is the issue that you first raised about the janitorial workers, essentially a union busting process.

DR. MINES: Do you mean the one about the INS?

ASSEMBLYMAN FARR: No, about the Black janitors who would be displaced by lower wage earning immigrants. I presume some of them were undocumented, the majority of them were undocumented.

ASSEMBLYMAN FARR: I don't know how to solve it. It's probably one of the reasons for having this hearing today.

DR. MINES: I am not sure of the solutions.

ASSEMBLYMAN FARR: But a lot of this, as a state, we don't control. Certainly Cal/OSHA we control, because we're interested in safety at the worksite.

DR. MINES: And also labor standards.

ASSEMBLYMAN FARR: I'm going through it right now. In my district, we've had all the things that you have talked about. We have had an employer in North Monterey County who has discovered housing people in holes in the ground, and those people had been living there for over a year. If you were with him long enough, you got to move into some kind of shelter that was like a dog house. But the ones that were out living in a hole in the earth, that's all they had. Some of them had been there for over a year, living in those conditions, hoping that they could move up. Now that's one issue.

The other issue that is going on right now is that there is a major strike in Watsonville. The canneries are in operation for the next few weeks because they have been able to bring in strikebusters. I don't know, but we'll probably hear more about that today. But whether they are undocumented, or whether they are not, seems to be an issue here because that's essentially a union busting process that is going on right now in Watsonville.

DR. MINES: Right. For me, the issues are: How do you raise labor standards, or how do you keep labor standards from deteriorating, because the demand for undocumented workers is a function of low standards. So what you want to do, if you want to be consistent as policy makers, is try to do everything you can to keep labor standards high in these labor markets.

ASSEMBLYMAN FARR: Yes. But let me just share with you something else: Senator Ramirez talked about the fact that Mexico wants to export. That is their thing. They want to

export products, not people. This Watsonville strike ... one of the problems is that the canneries in that city can produce all the fresh package vegetables that the United States consumes. They can do that physically and technically with the produce they have there for the entire United States -- all their consumption needs for a year. They have been doing almost 85 percent of that, historically. But now Safeway and other markets like that are now moving to buy those packaged goods from Senator Ramirez's plants in Mexico and from plants in Guatemala. So the American consumption is being flooded with foreign imports, and that drives those companies to try to stay competitive with wages abroad. We are finding the you know, in high tech industry people moving off shore, finding it in the packaging industry, move people, buying the packages from Mexico rather than the packages from California plants. That drives down the wages.

DR. MINES: Because we have competition in tradeable goods is no reason for us to abandon minimum standards or support of collective bargaining rights in California. I think that...

ASSEMBLYMAN FARR: Do we put sanctions on imports?

DR. MINES: I don't know the solution, but I do know, from my point of view, that it's wrong to abandon the labor culture that we have in this country for 30 or 40 years. We developed a model for the world in how we treat our workers and the standards that we have for our workers, and I think it is a mistake to abandon those standards and say that we have competition with those tradeable goods. Maybe those jobs shouldn't be here. I don't know. I'm not certain, but I am

certain that we have to have a unitary labor market and we should not abandon our labor standards.

ASSEMBLYMAN FARR: You can't have a theory that you can't abandon labor standards but abandon labor. That is totally inconsistent.

DR. MINES: Not to me.

Let me just conclude. I would stress again that I think the standards should be high in the labor markets. I would stress again the help for abandoned workers, and I would stress again the need for permanent... I'm not against immigration at all. I think we need a lot of immigrants, but they should be permanent settlers, not temporary immigrants.

In conclusion, I would stress these points: The system of musical chairs used by certain employers to constantly replenish the labor supply, I believe, runs against our labor traditions. I wonder if it would be possible to isolate these employers, which is not the majority, and require them to meet certain labor standards.

CHAIRWOMAN WRIGHT: Thank you. Assemblyman Bane.

ASSEMBLYMAN BANE: Yes. I was talking to a member of the Legislature yesterday who says that there is an employer in his district that uses undocumented workers, and a couple of days before payday he tips off the INS and they come in and he doesn't have to pay anyone at all. Do you have any evidence of that?

DR. MINES: Yes. The survey research shows that happens, particularly in agriculture where there is a harvest and ending point.

CHAIRWOMAN WRIGHT: This was a restaurant, I believe, wasn't it? I was there. It was a restaurant he was talking about, wasn't it?

DR. MINES: And also it's done by... for example, in a tortilla factory in San Jose, it was done to get rid of union organizers. We have a very, very ample supply of workers, and you tapped into several middlemen going in various different directions in different networks. If some people are organizing, you can get rid of them very easily.

ASSEMBLYMAN FARR: You mean in California you can... If you are an undocumented worker and you commit a crime here, we can retain you until we prosecute you. If you are an undocumented worker and you win a lottery, you can collect your lottery money. But if you are an undocumented worker and you perform a labor function, you are not entitled to collect your paycheck?

ASSEMBLYMAN BANE: Well, the undocumented workers, I think we are talking about, are those who don't speak English and are rounded up, put into busses, and sent back to Mexico. It is kind of hard for them to collect their paycheck on payday.

ASSEMBLYMAN FARR: That's what I mean. We had a fellow win a lottery last week who was an undocumented worker.

ASSEMBLYMAN BANE: Well, the lottery is more democratic than some of our employers.

CHAIRWOMAN WRIGHT: I think the situation here was, before payday arrived he would call them in and, of course, they were taken away and he couldn't pay them because they weren't there. That was the idea.

ASSEMBLYMAN FARR: That's the fallacy of this sort of inconsistency of state law, it seems to me.

CHAIRWOMAN WRIGHT: I want to thank you both for attending and for making your presentation. I appreciate that. I would, at this time, like to step out a little bit from our agenda because I understand there are some people who would like to make presentations and do have time restraints.

I would like to call forward the Supervisor from San Diego, Brian Bilbray.

SUPERVISOR BRIAN P. BILBRAY: Thank you, Madame Chairwoman. It's okay. A lot of us go through life being called Bill or William Bray. You learn to survive through it.

Let me first say that it's very interesting being an individual who lives on the border, and as being the supervisor who represents a district that not only has the highest percentage of Hispanics in San Diego County but also happens to be the location between the border and the mountains where the most immigration, illegal and legal, occurs in the entire world. In all fairness, Madame Chairwoman, there have been a lot of people walking through these chambers talking about this issue in such a manner as if they were walking on eggs. I understand that. It is very controversial, and I have to credit the committee for tackling an issue that, let's face it, a lot of us in elected office would like to have disappear. But as a representative of the area that not only ... we don't have this problem in our back yard or front yard, but this problem is literally going over the top in San Diego County .. I want to



point out that I am not representing the entire county but just the portion thereof, the first district, which is most impacted.

San Diego County has a unique situation in that it not only has the illegal aliens, or the undocumented workers -- and it is interesting the different terminology we use, because an illegal driver may not be driving recklessly, he just may not have a driver's license and I guess the best comparison is not to relate to somebody without a license as being somebody reckless or dangerous -- but we have the dubious distinction of sending you that large percentage of undocumented workers who come up through the entire state.

Let me sort of go in reverse. As anyone who has ever tried to get legislation through knows, everyone likes to take the cheap shots at proposed legislation. I'll start by taking shots at the legislation, and then address the existing situation.

The County of San Diego is very concerned about the fact that we're not talking 1900 United States; we're not talking about certain Third World countries; we're talking about the United States which tends to have a policy, to one degree or the other, that we're going to maintain services for every individual in this country that will be provided from cradle to grave. That has a very large impact on our mentality about immigration, be it legal or illegal. We can't compare it to other parts of the world. You can't talk about people moving from a Third World country to a Third World country, because you do not have guarantees in most portions of the world like you do in the

United States when you enter. (I want to point out that I am a product of immigration. My mother and half my family came from the Western Pacific.)

From a San Diego point of view, we are concerned about the impact on the social services being provided and the clauses in the proposed legislation that exempt certain individuals from federal access to services. Our concern is that it is going to drop onto the state and, i.e, the county. From a social services point of view, we predict that the proposed legislation, if not modified to some degree, may have as much as \$12.5 million impact a year, and that is a very large concern with us. From health services impact, we are very concerned about the not only proposed legislation -- but let me sort of jump over and say that to show you the impact that we have existing with one of my community clinics and social providers, 33 percent is identified as being undocumented aliens -- and I think that we need to recognize that at the same time we are taking cheap shots at proposed legislation, the impact is happening now.

Let me say that it is very interesting when we are cutting budgets. Because of the revenue sharing reductions, I had a representative of one social program system come to us and say, "You can't cut our program because we are providing critical services to a part of the community that is not being served." My response was, "Well, we have this program over here which will be expanded to a degree and your people can go there." The answer to that is, "But they require papers, we don't. The great percentage of our services are to people who don't have papers."

There is a great service need, but at the same time the need is being identified, existing services are also being taxed overwhelmingly. I don't need to tell you about the condition of counties in the State of California.

On the criminal justice point of view, the proposed legislation does have some very positive elements. The San Diego Police Department, at this time, identifies the existing law enforcement problem as being that 15 percent of all felonies committed in the San Diego City are committed by undocumented aliens. Now, we may think that because there is a real problem with the coyote problem and the burglaries crossing the border (taking property and crossing back across), the stolen car issue is tied to the undocumented alien issue, there is a lot of that kind of thing. But to separate it from just the immediate border region which happens to be where I live, the city of Escondido, which is about 60 miles north of the border, predicts that 13.25 percent of their felonies are committed by undocumented aliens. So right now we do have a law and order problem with the existing system, and the perception is that they may be able, by trying to approach a little more organized than what we have now, to help with the law enforcement.

ASSEMBLYMAN FARR: The legislation you're talking about is the Rodino bill?

SUPERVISOR BILBRAY: That would give the exemption. Or are you talking about the ...

ASSEMBLYMAN FARR: No. No. You are talking about legislation.

CHAIRWOMAN WRIGHT: The exemption, I believe, is in the Simpson bill.

SUPERVISOR BILBRAY: The Simpson bill has the exemption. Let me point out on that, while I take a shot at the legislation, I think that the concern in saying there is going to be an exemption, that federal programs will not be available to certain individuals in this country at the same time, they are not saying or exempting state and local agencies from picking up on that responsibility. That has been a real concern, especially for our county, because we've had past experiences that would have been very bad.

ASSEMBLYMAN FARR: The MIA issue for your county health services?

SUPERVISOR BILBRAY: Yes. We have not only that but it...

ASSEMBLYMAN FARR: Counties are responsible in California for picking up the costs of unpaid bills in hospitals, and you try to go after the insurance companies and the assets of the individual, but when you can't get those then whatever is left over the counties have to pay for.

SUPERVISOR BILBRAY: We have a lot of that now.

ASSEMBLYMAN FARR: And you still have a lot of those because the federal government says you can't get our help. You treat them oftentimes in emergency situations and you can't collect for them. You'll have to do that regardless of what happens to federal legislation.

SUPERVISOR BILBRAY: By law we have to do that, and that's a concern. I hate to say this because you're listening all day to people saying how terrible the situation is and how it is unacceptable, but how terrible the legislation may be and how maybe that's not unacceptable. Just to give you the flip side, we have juvenile halls that are filled, and we know that a percentage of them are undocumented aliens who know how to lie about their ages, and there is no way to prove that they're not over 18, then they get to take ... It's a lot easier ride for them in the juvenile facility than it is in our adult facility. In fact, we are at a point now where we are starting to take a test X-ray of the wrist, because medical people say that at a certain age there is a modification that they can identify.

ASSEMBLYMAN FARR: I read your testimony which essentially points out all of the impacts. What is your recommendation?

SUPERVISOR BILBRAY: The recommendation, Assemblyman, is that we recognize that we have tried to dam up a flow artificially, and like any other flow, be it a river or whatever, when you dam it up, it finally overflows so bad that it does more destruction than a controlled flow. There are those who would say, "Let's totally open up the border," and there are those who say, "Let's totally try to try slam the border shut." Neither side is acceptable. We need to recognize that there were failures 20 years ago with the Guest Worker Program, and there were injustices. I think we need to recognize that there is going to be a need for such a program, but there is a desperate need to administer in a humane way.

ASSEMBLYMAN FARR: Don't we have that now? We haven't shut the border down and we haven't opened it up. The staff report shows that we have had the largest emigration from Mexico in the history of this country, and it has been primarily to the west; it equals that of the era of the 20s. It may even surpass that, I guess. I mean maybe our policies are that we've shut the border, but it certainly hasn't had an effect of doing that.

SUPERVISOR BILBRAY: Let me just sort of paraphrase the first speaker this morning. It is like Prohibition. We have tried to modify a social activity by just blatantly outlawing it, and what it has done is actually aggravate it and we do not have the capabilities of totally controlling it. What we have right now, and I have to speak for the people of my district, we are the victims of an uncontrolled border. I don't care what anybody says. They say it is in control, but I ask any one of you to take a trip down to San Diego and stand within a mile of the Mexican border (west of I-5) at dusk and tell me that the United States government has control of its border. Our concern for San Diego is that the federal government addresses the problem of controlling the border but doesn't pass the responsibility of their action on to those of us at the state and local level.

ASSEMBLYMAN FARR: That's easy to say. I mean everybody talks like that, but how do you do it?

SUPERVISOR BILBRAY: First of all, they have to recognize that they are going to have to "bite the bullet" and have some new laws. The legislation, and I have to say this: If it's a choice of this supervisor between the existing situation,

and any one -- and I'll open myself wide open -- of the proposed legislation, the worse thing this country can do right now is to allow the status quo to remain. We're probably as low in the level as we can consider between crime. The victims being hurt are the immigrants themselves, it's the citizens. Everybody is getting hurt because the elected officials in this country have sort of wanted to hide this issue.

ASSEMBLYMAN FARR: But what you're suggesting is that you would support some legislation at the federal level as long as there was enough money to bail out San Diego County.

SUPERVISOR BILBRAY: I'm saying that if the federal government is going to recognize its responsibility in this situation, it needs to recognize that the state and local government can't accept the responsibility. In other words, if they are going to exempt themselves, then they should be exempting the state and county level. If they are going to exempt the state and county level, then they shouldn't be exempting the federal level.

ASSEMBLYMAN FARR: Stick around, you'll be able to talk to a congressman who has a vote.

SUPERVISOR BILBRAY: Thank you very much.

CHAIRWOMAN WRIGHT: Thank you.

SUPERVISOR BILBRAY: I appreciate it.

CHAIRWOMAN WRIGHT: Again, because of time, I am going to ask James Van Muren from the Chamber of Commerce to come forward and make a statement.

MR. JAMES VAN MUREN: Thank you Madame Chairwoman, I appreciate that.

I am James Van Muren, Group Manager, Agriculture, representing the California Chamber of Commerce. I am going to try to be as brief as I can.

CHAIRWOMAN WRIGHT: I appreciate that.

MR. VAN MUREN: I'll read it if I may.

The California Chamber supports reform of our immigration laws. Reports continue to indicate a high number of illegal aliens moving across our borders from Mexico, Cuba, and from Canada.

California has been a utopia in the minds of those individuals outside our borders who hear of American freedoms and opportunities. These ideals have motivated generations of people to cross our borders legally and otherwise.

The California Chamber does have a policy on immigration reform, and we feel that in reviewing this, and our board of directors has adopted it as contributing greatly to the solution, though it is obvious from what I've heard this morning, that it all becomes a very complicated political issue.

We support the program of amnesty for illegal aliens already in this country as a step towards controlling undocumented aliens; support definitive documentation procedures to determine citizenship; support modification of the H-2 Program to better accommodate diversification of undocumented workers; support sanctions against any employer who knowingly hires illegal aliens, provided that there is a definitive documentation



procedure that will not make employers policemen and that there is a seasonal agricultural worker program in place; support the strengthening of our borders for the purpose of stopping the movement of illegal aliens into this country; and support the requirement for a search warrant by Border Patrol before entering upon premises of a farm or other agricultural operation.

I have been invited here today to respond to the issue of employer sanctions. As noted earlier in the California Chamber Policy on Immigration Reform, we support the use of sanctions with the provision that there be a seasonal agricultural work program in place.

California agricultural employers who are producing highly labor intensive crops simply do not have the liberty or time to check each individual, who wants to work for them, as to their citizenship. Extremely perishable crops require picking, transport, and packing sometimes within a matter of hours if they are to be sold in the fresh market. It is a proven fact that workers of foreign descent are more willing to work in highly labor intensive jobs. Our domestic workforce does not seem to adapt to these conditions.

The California Chamber does not condone employers employing undocumented workers, and I am sure that it is not the intent of the agricultural employer to do so. Yet, when farmworkers are employed, it is a matter of timing, where the employers certainly do not have the liberty of challenging each employee as to his citizenship, but to have that individual processed so that he can move to the field and harvest the crops

as quickly as possible. The timing factor involved is why the California Chamber supports a definitive documentation procedure to determine citizenship upon demand of an employer.

When an employer requires a documentation prior to hiring, he should be allowed to decide on the basis of a valued judgment and he should be relieved of any responsibility, if the employee misrepresents the facts.

Employers should not be required to maintain a record of individuals recruited or referred for hiring purposes. Employers should only maintain records of employees hired.

It is the responsibility of the immigration officials to determine whether or not an individual is a citizen or a national of the United States, if that question should be raised.

The California Chamber of Commerce would oppose the use of sanctions without these provisions. You can easily assume that many agricultural employers are employing undocumented workers, and this based on numerous raids by the Border Patrol throughout California during the prime harvesting season.

If sanctions were in place without a special seasonal agricultural worker program functioning, it would be a trap for the employer. A seasonal agricultural worker program is designed to respond to the highly labor intensive crops (crops that require hand-picking and ripening within hours).

The nonagricultural industry that handles large volumes of employees does not necessarily handle a product as perishable.

CHAIRWOMAN WRIGHT: I'd like to ask you just one question. When you talk about the agricultural industry, do you extend that to also include thoroughbred breeding?

MR. VAN MUREN: I think, by definition, the raising of horses of different breeds is not considered to be a highly labor intensive agricultural program. No. It's only those crops that are fresh...

CHAIRWOMAN WRIGHT: I understand.

MR. VAN MUREN: ...and need to be removed from the field very quickly after their ripening.

CHAIRWOMAN WRIGHT: Do you feel that there should be dialogue between Mexico and California in regards to the federal immigration legislation?

MR. VAN MUREN: I think I missed your first word there.

CHAIRWOMAN WRIGHT: Well, first I might just as well tell you what some of my feelings are. My feelings are pretty much that in any kind of legislation at the state level that impacts local governments they should have some input into what is going on. I guess this is the feeling I have in regard to what is going on in Washington with the immigration legislation.

I think any kind of legislation will impact, not the Canadian border, but I think the states are affected; California, definitely; Texas, New Mexico and Arizona. I'm very concerned that it doesn't seem as though we have had any kind of input into the process of this. But then, on the other hand, I can also understand Mexico's concern and whether we agree with what they say or not, I still think that we should listen.

MR. VAN MUREN: I think that the State of California has representatives in Washington, and it is my understanding that those representatives have communicated and articulated their

concerns. Perhaps it has not been noticeable. I'm not sure that we've really had hearings here in California, which would have given Congress the opportunity to listen to the state departments that may have different varied issues and concerns from our different counties and the Boards of Supervisor members, and I respect those concerns.

The financial problems that, perhaps, will result, will be substantial. But, I think as far as the agricultural community is concerned and as far as the labor community is concerned, they have been very vocal on the bills and I think they have contributed quite a bit to much of the language that is currently under consideration, and they're still presenting their viewpoints because the House bill has not being finalized yet.

CHAIRWOMAN WRIGHT: Thank you. Are there any questions?

ASSEMBLYMAN FARR: I have one question - a couple of questions.

You represent the agricultural sector of the State Chamber?

MR. VAN MUREN: Yes.

ASSEMBLYMAN FARR: Do you have any data to give to this committee, showing that California agriculture is dependent upon imported labor?

MR. VAN MUREN: No.

ASSEMBLYMAN FARR: So it is just your ...

MR. VAN MUREN: One of the things you have to - it's always difficult because you don't know really - you draw certain assumptions that those laborers that are out there - some are

legals and some are illegals - only because you know that when the Border Patrol comes you have a percentage of them that are missing, but I don't think that anyone makes an effort to determine if they're legal or illegal.

ASSEMBLYMAN FARR: I didn't ask the question of whether they were legal or illegal. I asked the question of whether your State Chamber had any documentation to show that California agriculture was dependent upon imported labor.

MR. VAN MUREN: The only way that can be legally measured would be from the fact that the imported labor that does come in, legally, is under the H-2 Program, and that program is primarily used by the sheep raisers. They have an Association that works with Portugal and some of the other ...

ASSEMBLYMAN FARR: That's - what your statement - and I'm just trying to find out because I've heard that statement before, but I've never seen any documentation - your statement essentially said, "Let's cut down on illegal aliens, let's shut down the border, but make an exception for the bracero program, for the green card workers to come across, harvest our fields, and go back to Mexico. And, don't hold the farmer accountable if some of those people are illegal aliens, that should be the INS' job." And, I want to know why the State Chamber of Commerce feels that we have to keep importing labor in order to harvest California's crops and then you say you don't have any documentation to show that we need to continue to import.

MR. VAN MUREN: The only documentation that I have is documentation that has been presented in this statement. Number

one, we know, and I think it's even been testified here today, that the use of domestic help, for the most part, are simply not effective and simply, many times, refuse to do the work. All right. So we go ...

ASSEMBLYMAN FARR: People have had attitudinal values expressed here today but no documentation on that.

MR. VAN MUREN: Well, I'd have to go back to the economist who furnished me with that information. The next thing is, you asked the question as to whether we really need imported labor to harvest the crops. In my opinion, we've discovered that the green card or these workers who come in through contract laborers are, for the most part, Hispanics, and they are quite willing to assume the responsibility of those jobs. Most of them, we assume that they have certain residences here in California. I can't testify to that because I'm not out in that field.

ASSEMBLYMAN FARR: Well, I think you need, and the State Chamber needs to pull its case together in a much stronger way. I really think that the argument that you made is very weak, particularly from the standpoint that three out of -- you talk about the INS needing to do the job, and we have a system of laws that supposedly is trying to work, but what we've heard is that it doesn't work - three out of five people coming into California today, three out of five, are illegal. And, that's under existing laws and existing enforcement practices.

If you are going to try to stop the illegals once they get in by finding out who they are and sending them back, which

is essentially the INS role, you just have to get a real huge Gestapo police force to hunt people down and that is not really very acceptable because you're not going to hold the employer accountable.

I think that if you really want to try to solve this problem, and there are two problems here that I see. One is world competition. The argument ought to be -- I think what your real argument is -- that you need to keep cheap labor in order to keep California products competitive. That's one problem. The other problem is how do you stop the world from seeking California, the most golden spot on the earth in terms of quality of life? And the only way you can do that is to get tough at the borders and just, essentially, lock them down.

It is not just a problem that California has. The New England states have it with Canada and vice-versa. There are a lot of jobs in Canada that Americans commute to. So, any law that is adopted in Washington - you can't take a different perspective on that law from the Mexican border than from the Canadian border. So, it does have impacts, and probably compromises have to be made, but I'm concerned that all the testimony is giving a couple of assumptions.

One is that the California economy can't survive without this desperate, cheap labor that we're getting because people come in and they're scared and they'll work for anything and they're taken advantage of, and that advantage gives California's commerce the ability to be competitive.

MR. VAN MUREN: Can I respond to that?

ASSEMBLYMAN FARR: Yes.

MR. VAN MUREN: I don't think that at any time I said that we were interested in cheap labor.

ASSEMBLYMAN FARR: You didn't use those words, no.

MR. VAN MUREN: No, and I want to state that I'm not using those words. As far as I'm concerned, any labor that is doing a full good day's job will pull the average wage rate, whatever it is, but it should be no less than the minimum wage, and I'm not advocating anything of that nature whatsoever.

ASSEMBLYMAN FARR: You supported unionization of agricultural workers?

MR. VAN MUREN: I was involved, and supported, the Farm Labor Act, which is currently established, although I've had some problems with its administration.

ASSEMBLYMAN FARR: But, the point that I think is being made here is that you say you can't rely on domestic labor for agriculture, but I've never seen any data showing that you can't. I think the fear is if you rely on domestic labor, it's going to get organized, and it's going to be smart, and it's not going to work for such cheap wages.

MR. VAN MUREN: I don't have any of that kind of data with me. I only have the kinds of statements presented to me by many employers, and these are farmers, farmers throughout the state, in a variety of areas in the state, who simply feel that as far as the workers are concerned, the job gets done very quickly, with little hesitation, when you use workers that they've been able to employ, as far as I've been told, they've



been appropriately reimbursed for their labors, and primarily they've been Hispanic in origin.

ASSEMBLYMAN FARR: Maybe we ought to import soldiers to fight our wars.

CHAIRWOMAN WRIGHT: I'd like to, at this point, thank you for your presentation.

I have a schedule that we would break at 1:00 for lunch, but I also have someone who represents one of the unions who would like to speak, and in order to kind of break off here on that subject matter, I would like both union representatives to come forward and I'm going to keep this going until a quarter after 1:00, and then I'm going to break because I want to hold as close to our schedule as possible because I have so many other people coming. So, I'm going to ask Dolores Huerta and Michael Gomez, who is representing Peter Beltran, to come forward.

MR. MICHAEL GOMEZ: Thank you, Madame Chair and members of the Committee. We're very pleased to learn that a committee such as this is looking into a problem that - I shouldn't say a problem - a situation that is of great concern to us. My name is Mike Gomez. I'm representing the United Automobile, Aerospace, and Agricultural Implement Workers of America. I'm speaking on behalf of our local union, not the international union, and on behalf of our president, Pete Beltran, as you mentioned. I'm an Executive Board Officer, Chairman of the Political Committee. I am also an officer within the Democratic Party as Vice Chair of my Assembly District Democratic Committee, and I'm also an assemblyline worker in the plant.

In general, we believe that the immigration question has to be addressed from the point of view of the political, economic situation in the hemisphere, if not the world. It is our opinion that a bill that we consider regressive, antilabor, (and to be very open about it) racist is not going to solve any kind of question regarding immigration.

CHAIRWOMAN WRIGHT: Since you've made those charges, would you point out what part of the bill you feel - you talked about it being antilabor and racist - and I want to know what part of the bill you're referring to when you say that.

MR. GOMEZ: The bill, in general, pits workers - divides workers - and it's antilabor, antiunion in that sense. Also (inaudible - two voices)...

CHAIRWOMAN WRIGHT: (Inaudible) ...documented against undocumented.

MR. GOMEZ: ...aspects of it. Let me also tell you that I'm speaking also as a potential victim of this bill. Let me tell you that I was born in Mexico. I'm the only one in my family that was born in Mexico for circumstances that I won't go into here, but at the age of 3 - I'm 43 now - we moved to this country and became a naturalized citizen when I entered military service here in California. So, I'm a permanent naturalized citizen, but not native born.

So, for example, if my plant would close - which there is every possibility it will being we're in constant threat of plant closing at GM Van Nuys Plant in Van Nuys - I would be forced to, eventually, look for other employment, and it is my

opinion that as I would walk in the door, I would be part of the subclass that I think this bill would create. And, in the eyes of the employer, I would be discriminated against regardless of the so-called antidiscrimination clauses and certain language of protection in that bill.

In our opinion, the situation which the bill will engender is parallel to a kind of South Africa type state here, and an outright attack on all workers and the very principles of democracy. It is our intention as a local union to continue to organize workers, and we are organizing workers. We have four active drives. We never have, and never will, consider documentation as a condition for organizing workers in this state. We would not become an arm of the INS or become INS agents. We will continue to challenge this bill and fight this type of attack coming from elements within both parties.

The Rodino Alternative or so-called liberal option bill, is not acceptable to us being it contains basically the same elements as Simpson. I believe that ...

CHAIRWOMAN WRIGHT: What would you find acceptable?

MR. GOMEZ: Pardon me?

CHAIRWOMAN WRIGHT: What would you find acceptable?

MR. GOMEZ: In my opinion, we have to recognize the situation as it actually exists. That is, immigrant workers, in the Southwest and in the country in general, actually create a foundation for the economy. That is what our belief is. In California, it is not a high unemployment state and where is all this danger in terms of looking at the national situation.

California is, as a matter of fact, doing better than some states. So, therefore, you have to realize that undocumented workers actually create part of the base of the economy of this state.

Let me just tell you that I believe that we must unite as liberal forces in labor, and Sister Huerta will speak further on that I'm sure. We have the same concerns and we understand that solidarity amongst the labor unions, in conjunction with other liberal forces within our society, will eventually defeat this type of attack and justice will prevail in the end. As far as I'm concerned, I will never accept such a violation of my constitutional and human rights. I never will. And I don't believe I will abide by that law, and I've always been a law-abiding citizen, and I'll be forced to become a non-law-abiding citizen. I don't believe that (inaudible) law should be abided by anyone, and I certainly won't because of the color of my skin or the place of my birth.

CHAIRWOMAN WRIGHT: But, first of all, let me tell you that as far as I'm concerned, I think that in many instances, we constantly speak of Hispanic as being a minority. I don't classify that as minority, and I'll tell you why: For the simple reason when we talk, we talk about Caucasian, and therefore you are Caucasian. I take you as a nationality, and I would say that I'm Italian, you're Mexican, but I'm Italian-American, and you're Mexican-American.

MR. GOMEZ: And we've had the (inaudible) society.

CHAIRWOMAN WRIGHT: And we're the same.

MR. GOMEZ: Do you believe that we've had the same advantages under this society?

CHAIRWOMAN WRIGHT: I believe I have, and I believe you have too, yes.

MR. GOMEZ: That you and I have had the same advantages? I don't agree with that, and I think the records will show that.

CHAIRWOMAN WRIGHT: Well, I think sometimes if you act as being defeated, you will be.

MR. GOMEZ: No. Just facing...

CHAIRWOMAN WRIGHT: And what I'm hearing from you right now gives me that feeling.

MR. GOMEZ: ...reality.

CHAIRWOMAN WRIGHT: Because we are trying to find - at least I think here in the State of California - we're trying to find a meeting ground where we can all work together. And you're telling me that you feel that that is not going to happen under this legislation.

MR. GOMEZ: That's right.

CHAIRWOMAN WRIGHT: And yet you are an American citizen and this bill is supposed to be addressing those who are not!

MR. GOMEZ: I just told you I was an American citizen. Do you know that for a fact?

CHAIRWOMAN WRIGHT: I take you to be an honest man. I've never doubted anyone's honesty when they tell me something.

MR. GOMEZ: Do I have to tattoo my social security number on my wrist if somebody mentions a wrist?

CHAIRWOMAN WRIGHT: No, I accept that.

MR. GOMEZ: Will the employer accept that and hire me?

CHAIRWOMAN WRIGHT: I think he should.

MR. GOMEZ: Well, that's not going to be the case if you really ...

CHAIRWOMAN WRIGHT: What are we talking about? I think where the problem lies is in the fact that we have to find some way in which people do not come into the United States as undocumented, and I think that is the point we have to reach.

MR. GOMEZ: We have a solution for that.

CHAIRWOMAN WRIGHT: I think that if you're taking people into your union that you know are undocumented, then I would think that your situation would be that you would try to help them become legal immigrants.

MR. GOMEZ: Well, why don't we raise the quota from 20,000 to 50,000?

CHAIRWOMAN WRIGHT: If that's the way to do it, then let's do it!

MR. GOMEZ: They won't do that.

CHAIRWOMAN WRIGHT: All right, then let's make that a suggestion. That's why we're having this meeting today. It's fine to come up and say that this is wrong or that's wrong, but what I'm trying to do is put together recommendations from this committee. It's very easy to say it's wrong and don't do it this way, but let's get some recommendations. Your recommendation, then?

MR. GOMEZ: I understand, and I do appreciate the opportunity to speak.

CHAIRWOMAN WRIGHT: Then I would say that your recommendation is that we should increase the quota of Mexicans who can come into the United States.

MR. GOMEZ: Yes.

CHAIRWOMAN WRIGHT: Fine.

Dolores, would you like to speak?

MS. DOLORES HUERTA: As the group most affected by this legislation, we need to put forth the view of the workers that are going to be most affected. Because if any group of people is going to be affected, it is going to be the farm workers. As you look at the Simpson-Rodino bill, it has nothing to do with legalization; it has nothing to do with immigration. It is a shell for a new bracero program. That's all that the bill is. And, you know, we heard the testimony of Senor Ramirez here and he talked about how in the prior bracero program, all of the agreements between Mexico and the United States, which is a document about this thick by the way, was broken. And there were tremendous abuses which, you know, finally caused such a public outcry that that had to be ended. Well, we're in the same situation now.

We also heard the representative here from the Chamber of Commerce - how he agreed to the Farm Labor Bill. Okay, the Farm Labor Bill has totally been destroyed now. Even though it was an agreement between the growers and the union to have the ALRA, it has been totally destroyed.

CHAIRWOMAN WRIGHT: How do you feel that it has been destroyed?

MS. HUERTA: Well, the budget has been cut; there's no compliance; there's no investigators; you have the General Counsel of the ALRB going out speaking against the union when he's supposed to be the one protecting the workers' rights. I'm mentioning this only in that this bill, the Simpson-Rodino Bill, is a bill to destroy the unionization of farm workers. That is the only purpose of this bill, and I can prove that.

Waiting on the impact of this bill - with the present situation that we have right now with the General Counsel and the ALRB under Governor Deukmejian - the growers are just violating the ALRA hand-over-fist. They are firing masses of workers; they are refusing to re-sign contracts; they are displacing and removing all of the farm workers who are now under union contracts; and they are getting rid of the workers ...

CHAIRWOMAN WRIGHT: Are you saying they are replacing them with the undocumented?

MS. HUERTA: Yes, in some cases they are replacing them with undocumented workers. As a matter of fact, to talk about San Diego County, specifically, in San Diego County, we once had over 27 contracts there. We had a full medical plan. Nobody had to go to the County Hospital. We had a full medical plan that covered the workers for major medical, dental, and vision. And it covered their entire family. Our clinic down there, and our workers that we have to service down there are very few now because those workers have totally been replaced.

What the growers want to do is they want to set up an apartheid system for farm workers. Under the Rodino bill, no



farm worker can ever be legalized. It would be a constantly replenished force as Richard Mines said. They would have fresh and new workers all the time. These workers would have no guarantees on wages, no guarantees on jobs, no guarantees on housing, no guarantees even on employment, and all the amendments that were offered during the conference committee last year, were rejected by Panetta and Morrison in terms of trying to get any improvements. All of the domestic recruitment provisions that are currently in the law have been watered down totally, so that domestic farm workers will have no protection and foreign farm workers will have no protection.

Right now there are 27,000 farm workers in this country. There have been numerous violations and I have a paper on that - which I would like to leave with the committee and I would appreciate it if you would make copies for the other people - which will document, specifically, the violations of law that have happened with the H-2 workers that are now in the country with stronger protective language than what we would have in the Rodino Bill. The workers are being abused everywhere and there are no protections for them; none whatsoever.

There was a survey done in California recently that showed that 83% of the California farm workers support unionization and support the United Farm Workers in particular, which has sort of inspired the growers to hurry up and try to get this Rodino bill through even faster because they want to try to stop the unionization of workers totally. The unemployment in California, right now, among the rural areas, is one of the highest in the country.

CHAIRWOMAN WRIGHT: One question, please. Mr. Farr wishes to ask you a question.

ASSEMBLYMAN FARR: Can I ask a question, Dolores? Do you think that we need to import workers to harvest California agriculture?

MS. HUERTA: We have literally thousands of workers signed up at our hiring halls waiting to go to work.

ASSEMBLYMAN FARR: Are any of those workers undocumented workers?

MS. HUERTA: In some areas we do have undocumented workers because, when we have an election at a ranch, we have the election with whatever workers happen to be there. For instance, at the (inaudible) Olive Ranch in Madera County there were a thousand workers at that ranch when we had an election. I would say that 90% of the workers were undocumented. The workers were earning \$2.00 an hour (inaudible).

ASSEMBLYMAN FARR: So that the procedure there is that the union just becomes the umbrella for whatever workers are there?

MS. HUERTA: And whatever workers vote in a union election, those workers then have the priority, the seniority on that particular ranch.

ASSEMBLYMAN FARR: Do you think that the issue of undocumented workers ought to be enforced by the employer then? By the ultimate employer? Should we just leave it up to the system - which isn't working - the INS? Or should we have some kind of ...

MS. HUERTA: Well, the INS has never been a friend of unionization and, as Mr. Mines testified earlier, we have one of our farm workers who was a citizen, an American citizen, who was killed, shot in the chest by an INS border patrolman because he couldn't speak English. He was an American citizen. He didn't have a green card, resident card, to show them because he was an American citizen. And I don't think any kind of sanctions would ever work fairly, and since the Simpson-Mazzoli bill started moving, we've all met with increased discrimination, you know, every single one of us has met with increased discrimination. And I do believe that any kind of sanctions would make that discrimination more.

We had a representative of the Mexican Government here today, and I was just overjoyed to see and hear what he was saying because these are the feelings that I have had and have stated many times without the authority that this man has. He's saying, "Hey, let us in on the discussions. This is an international problem; it's a global problem." The Simpson-Rodino bill punishes the people who are the victims of the economic conditions in Mexico and high unemployment here. We have to make an international agreement to solve the problem. Having sanctions, having the militarization of the border, is not going to solve problems. You're going to have more cases like the little kid that was shot in the chest down there by a border patrolman in San Diego, or like our member who was killed - shot in cold blood at work because he looked like he should have been a Mexican illegal, and he wasn't, you know. We have to look for the solutions.

ASSEMBLYMAN FARR: If sanctions don't work, we need to have better dialogue, and we need to support Mexico in the development of their economic infrastructure so that the job opportunities will be in Mexico, but I'm not sure that - and I do believe we need to do all those things - with the growth rate of Mexico and the success of California, and the proximity, it just is going to be a desire for a lot of people to get here.

MS. HUERTA: Not so. Not so.

ASSEMBLYMAN FARR: How do you - how do you ...

MS. HUERTA: When they created four million jobs in Mexico - when they first found the oil and they borrowed heavily - the illegal immigration almost stopped. I mean, people don't want to come here; they come here only for need. And I can say this because of our membership. You have some people (the ones who've stayed here) who just happen to stay because they have kids here that go to school and the many changes. But many of them are just coming out of need; they're coming, then they go back. If Mexico's economy could be helped, which we are in a position to do, I mean, we helped Japan get on their feet; we helped Germany get on their feet but we have done very little for Mexico and Central America. We've just taken land, water, people, you know, and never given back, and that's where we have to solve the problem.

Every Hispanic you speak to will say, "This bill is a discriminatory bill." You are going to, as I said, set up an apartheid system for farm workers so they can never get legalized and, in the meantime, displacing all of the United States' farm

workers where we now have an unemployment rate of 45% in Texas and 19% in California. This bill is not going to solve any problems. It is going to create a system where every Mexican will have to have a pass to show that he's a legal person here. I mean it is a highly discriminatory bill and I don't know who thought it up. I've never found anybody who really wants the bill except Senator Simpson and Representative Mazzoli who have no Hispanics in their districts.

CHAIRWOMAN WRIGHT: I would hope you would be here this afternoon when Congressman Lungren arrives.

ASSEMBLYMAN FARR: One last question.

MS. HUERTA: There is one other point I would like to make. Go ahead, Mr. Farr.

ASSEMBLYMAN FARR: The network buster that we were talking about this morning - the network - what do they call them?

CHAIRWOMAN WRIGHT: The Hispanic lead man.

ASSEMBLYMAN FARR: Well, what do you think about that system? That network that seems to be growing out of essentially an idea there of union busting.

MS. HUERTA: What I would just say is that anybody can become a lead person. I mean it's just people contacting the people in their village and saying, "There's a job opportunity here." You know, that's all that that is. I mean, it's not like a real professional type of a thing. There's a job opening, so you call your cousin to get a few friends and bring them down. There's one thing I want to...

ASSEMBLYMAN FARR: Doesn't that threaten the union if that...

MS. HUERTA: The trouble with the union is when workers fear deportation. If workers don't fear deportation, if workers know that they won't get deported because they're trying to unionize then, you know, we can win elections. Right now the growers are refusing to sign contracts. And so we have to go to the grape boycott right? Because we win contracts like on this ... then we have to wait three or four years for certification and then the growers refuse to negotiate, or like (inaudible) the Supreme Court has ordered him to sign the contract and he refuses. But that's the wrong place to attack the problem. I think you have to solve the real root, which is the economic conditions in Mexico and Central America. There's one thing that is really important in terms of what was said today about the old bracero program, the treatment of farm workers has not been bettered by the growers on their own. The only way that the conditions of farm workers have been bettered has been through the union. You know, through the union we have been able to get good wages, a medical plan, a pension plan, decent working conditions, decent housing. Just remember this, the DOL (The Department of Labor) refused to issue a standard for toilets for farm workers, nationally. This just happened within the last few months. When it was brought to the floor of the Congress about three weeks ago by Congressman Miller, the administration called down and all the Republicans voted against toilets for farm workers. I mean, this is national policy, and one of the

Congressmen from Montana got up and said, "Well, you know if they had a toilet they wouldn't know how to use it anyway." I guess only farm workers that have a union know how to use a toilet.

But the other thing is that, you know, we've had a farm worker who was killed by pesticides down in San Diego County less than a month ago, Mr. Shaboya, who went to work and collapsed in the field and the grower had someone drive him over to Mexico and he was already dead and then we had to bring him back for the autopsy, bring the body back. We had a farm worker named Lopez, a 21-year old farm worker, who was killed in September of '84 because he voted for the union. He voted in the union election. This happened in Caruthers in Fresno County to the 21-year old immigrant farmworker because he voted for the union. So, wherever we are losing contracts, the conditions are going back to where they were before, toilets, anything, so...

CHAIRWOMAN WRIGHT: Excuse me, please. The information that you are providing is dealing with labor unions and employees. I have to be honest with you, I don't think that's where we're coming from as far as this meeting is concerned. I hear what you're saying in regards to this particular bill on immigration is concerned, and I guess what I would really like to hear from you is if you feel the same way as Mr. Gomez, in that he thinks that we should increase the quota, or do you feel that we shouldn't allow any more undocumented people into California because you feel that there's too many farmworkers now?

MS. HUERTA: Well, I'm saying right now, an undocumented farm worker who is working next to a worker who is a citizen or

resident, he gets the same wages as that worker does. Under the proposed guestworker program, all farm workers will be getting minimum wage or less than minimum wage. That will be for the workers that come in without documents and the citizen and resident farm workers. Okay, that is a very bad thing. You're talking about a system that will keep the wages down. An undocumented worker that is here right now, if he doesn't like where he's at, he can go on strike, okay, he can even come to the negotiating table, he can come to bargain, or he can leave that job and go to another one. They will not be able to do this under the H2 program. The whole idea of the H2 program is to create an even greater surplus of workers than we already have right now, which is already tremendous. There are over 200,000 unemployed farm workers in the United States right now, and if we talk about those who are partially employed, it's something like 400,000.

CHAIRWOMAN WRIGHT: And in California.

MS. HUERTA: That's right and you're not going to be. I'm saying that this bill, the Rodino bill, the Simpson bill, are not going to stop any problems. History shows that under the old bracero program the number of people who came into the country illegally increased proportionately with the number of people that were brought in as braceros.

I have the statistics here. One year before the bracero program was instituted, the number was 6,000. By 1946, the number rose to 101,000. By 1954, it went up to something like five million. These are the deportations, right? We ultimately



brought 4.5 million people in during the 20-year bracero program, and during that period of time we had five million deportations of people who came in outside the program. Starting any kind of guestworker or H2 program is not going to solve the problem of illegal immigration -- it's not. That is a farce, if anybody says that it is, it's not going to. There is no shortage of workers.

CHAIRWOMAN WRIGHT: So you would rather have the borders closed?

MS. HUERTA: I'm saying, let's help Mexico and the Central American countries solve their economic problems. Then that will stop the people coming in. Nothing short of that will stop it. You'd have to build a wall from one side of the ocean to the other.

CHAIRWOMAN WRIGHT: I think Dr. Bustamante made that very clear when he pointed out that when you say a million people have been sent back to Mexico, it sometimes is not a million separate individuals, but rather it's some people over and over again.

MS. HUERTA: I agree. I'm just saying that you can certainly compare statistics of a thousand, or statistics of a million, you can cut them by half or by a third. And I'm saying the bracero program did not stop illegal immigration, and the proposed Rodino bill will not stop the H2 program either. Farm workers have already been displaced in Arizona. The company there set up a company union and it has kept out 600 farm workers. Let me just mention one other thing ...

CHAIRWOMAN WRIGHT: I'm sorry, but I told you I would give fifteen minutes. I've given you a half hour. We do have lunch waiting and we would like to be able to give the Senator lunch before he has to leave for Mexico. With that I'm going to adjourn until 2:30.

-- LUNCH BREAK --

CHAIRWOMAN WRIGHT: I'm going to ask Russell Williams to begin the afternoon session because I understand he has a plane to catch, and then I'm going to ask Peter Schey after that, then we'll try to get back to adhering as close as we can to the agenda.

MR. RUSSELL L. WILLIAMS: Thank you, Madame Chairwoman. My name is Russell Williams. I am President of Agriculture Producers. The association represents about 80% of the citrus and avocado industries of California and Arizona.

I'm pleased to appear before the committee today to discuss the impact of the proposed federal immigration reform legislation as it relates to California and agriculture in our state. We believe it is time, perhaps even past time, for immigration reform legislation to be enacted. It is questionable whether the current uncertain situation benefits anyone, employers, workers or the country as a whole, except for those who traffic in undocumented aliens and those who use their status as a basis to exploit them.

What should an immigration and reform bill include? The legislative consensus seems to be that it requires four elements, elements which are found in S. 1200 and to a different extent in H.R. 3080. Those four elements are employer sanctions, increased border enforcement, legalization, and temporary foreign worker programs. The agricultural community is not thrilled with all those elements, as you can imagine, but generally believe they are in the best interests of our nation. I will focus on temporary foreign worker programs, as requested in my invitation letter from the committee.

Let me start with a few facts, or, at least, what pass for facts in the imperfect world of debate about immigration numbers.

Many experts believe there are between three and six million undocumented aliens in our country, a staggering number no matter how you look at it. That number appears to be growing; a large percentage reside in our state. Of the total undocumented population, the U.S. Immigration and Naturalization Service estimates between eight and fifteen percent work in agriculture. As this estimate indicates, undocumented aliens, in fact, are spread throughout our entire economy. Within California agriculture there is a high rate of dependency on undocumented labor, especially for seasonal work.

I have been asked repeatedly what percentage of seasonal workers are here illegally, and my response has been, as it must be today, that I simply do not know. No one knows. While many workers may have documents, experience has demonstrated that

those documents are frequently fraudulent. What does this mean for California agriculture? In the simplest terms, it means we need a safety valve of a workable, seasonal worker program in any reform legislation. The question, of course, immediately is why? Very simply, because immigration reform legislation, by imposing penalties on employers who knowingly hire undocumented aliens and by increasing INS enforcement, may substantially impact the ability of California agricultural employers to continue to utilize their existing labor force.

I realize there are people in this country and perhaps here today who believe in all their hearts that if the undocumented population can be curtailed, there will emerge sufficient domestic workers to take the jobs now held by undocumented aliens. Frankly, I hope they're right. I hope it will be possible for California agriculture to operate using solely domestic labor. Using domestic labor will be less costly and easier to manage than any possible, any possible, legal foreign worker program. However, I am of the belief that they are incorrect, that domestic workers will not be available in the numbers needed and if they are incorrect, California agriculture must have workable temporary foreign worker programs. These programs must protect the priority of domestic workers for domestic jobs.

The principal temporary worker programs under discussion in Congress, the H2 program, and the guestworker program, give first priority to recruiting and hiring U.S. workers. The temporary foreign workers program must also protect the wages and working

conditions of U.S. workers. Again, the programs under discussion in Washington will do that. The fact that the protections are so strong is one of the factors that make the programs costly for employers.

The temporary labor programs should also be workable. A program which exists on paper, but which does not function in a timely fashion, can literally mean financial death to employers in our state and in our country. The current H2 program, for instance, which is used on the east coast and by some of my members in Arizona is frequently so difficult and so exasperating to use that even those employers who would like to use a legal work force rather than an illegal foreign work force do not do so.

CHAIRWOMAN WRIGHT: Excuse me, would you give a definition of what the H2 program is? There may be people here who don't understand.

MR. WILLIAMS: The H2 program is a subsection of the existing Immigration and Naturalization Act. It's actually Section 101(a) 15h2, or something like that, H2 being H and 2 (inaudible). It's been around in one form or another for about 40 years in modified form. It basically exists in about two lines in statute and 40 pages of regulation. If you want me to expand beyond that, I can. I can give you the parameters of what's involved but...

CHAIRWOMAN WRIGHT: It's basically relating to temporary workers.

MR. WILLIAMS: It allows you to bring in temporary workers. You have to make a nationwide search for domestic labor. That means a regional search of (inaudible) recruitment search. It mandates what is referred to as the adverse effect wage rate, which in California, were we to utilize it now, would be somewhere in the area of \$5.40. That's your minimum wage, guaranteed. It mandates what is referred to as a three quarters guarantee, which means you have to pay -- you contract for a specific period of time. You have to pay whether the workers work or not three quarters of that contract, period. You can do nothing less than the prevailing practices, which under a contract, would be considered a maintenance of standards. So, if you provide medical insurance, you have to continue to provide medical insurance. If you provide a pension plan, you have to provide a pension plan and so forth and so on. You can just run it on out.

Once you apply for the H2 program, if you satisfy through recruitment, through referrals by the employment service, your total labor need from the domestic pool, you still have a contract and those guarantees still apply, so it's not the type of thing one jumps into lightly. One jumps into it because one has a firm belief that they're not going to find a sufficient domestic labor force.

Before concluding, I would like to make two comments about Mexico, which is also a part of my charge the committee gave me. I must say I'm not an expert on Mexico, but I have had some experience dealing with that proud country to our south.

Many of the undocumented temporary seasonal agricultural workers are from Mexico. Their presence in the United States not only relieves, to some extent, the overwhelming unemployment and underemployment problem in that country but also creates remittances, which are a major part of Mexico's foreign earnings. An immediate and total cutoff of the U.S. labor market for the Mexican seasonal workers therefore would harm, at least in the short term, the Mexican economy. The legal, temporary foreign worker programs being considered will mitigate any such harm to the Mexican economy by continuing to admit workers, except they will come legally. They will be afforded basic human and legal protections that they often may not now receive because they are here contrary to our existing laws.

Secondly, I am hopeful that under any temporary foreign worker program the U.S. government and U.S. employers will be able to develop a positive working relationship with the citizens and government of Mexico. I think that's essential. It will make the program more workable for U.S. employers and will better guarantee the rights and benefits of those who come to work here.

Finally, Madame Chairwoman, I want to emphasize how important temporary foreign worker programs as a part of immigration reform can be for American jobs. Some opponents of these programs try to make the issue black or white. One is either for foreign labor or for domestic labor. Frankly, that's nonsense. Without temporary foreign workers when domestic workers are not available, many American jobs will be jeopardized. You cannot separate the two. If there is no one to

pick the fruit, there will be no jobs for those who grow the fruit, for the packers, or the sales people, for the retail marketing people, and all the others right on down the production line. Properly constructed and administered, the temporary foreign worker programs protect those jobs. Thank you.

CHAIRWOMAN WRIGHT: Thank you. Peter Schey.

MR. PETER SCHEY: Madame Chairwoman, thank you for inviting me to make a brief presentation today. My name is Peter Schey, and I'm the Executive Director of the National Center for Immigrants' Rights, Inc., based in Los Angeles, California. We are a policy oriented and litigation oriented legal group funded by the State Bar of California, the United Way, and various church and private organizations. I will be addressing myself briefly to the aspects of the Simpson-Rodino bill based on our experience as lawyers for both documented and undocumented immigrants, and then equally as briefly I might suggest some alternative approaches to immigration reform.

Based on a careful study of the pending legislation, we believe that while the bill is postured as one aimed at reducing the flow of immigrants into the United States, it is instead an innovative effort at what we call "supply-side immigration theory." That is, how to continue and institutionalize, if not expand, access to cheap foreign labor. I would like to very briefly look at each aspect of the bill.

Firstly, regarding the temporary worker aspect. One portion of the bill seeks to "streamline" the existing H2 program. Under the existing program, approximately 30,000



temporary workers are currently imported into the United States each year to perform labor for which employers claim no U.S. citizen workers can be found. These H2 workers come cheap, they place no upward pressure on wages, they're often difficult to unionize, and they have virtually no access to protective labor legislation. In short, they in many ways exemplify a model work force for agribusiness and urban industries. A supply side ...

CHAIRWOMAN WRIGHT: Excuse me. While you're on that train of thought, were you present when we had Dr. Morales, who was doing a study ...

MR. SCHEY: Yes, I was present.

CHAIRWOMAN WRIGHT: ... with unions in which she says they are unionizing the undocumented workers in order to protect them?

MR. SCHEY: In fact, the undocumented workers in our experience, and we have worked with both undocumented workers and these H2 workers, are easier to unionize and to provide labor protection for. The reason for that is the H2 worker is tied to a particular employer so that when that particular employer sees fit to terminate that worker, perhaps because of the attitude of the worker or because the worker demanded that he or she be paid wages for working on the weekends or working overtime, the employer can simply terminate the services of that worker, which in turn terminates their visa in the United States. So, in essence, the H2 workers are not dissimilar to indentured servants in that they are tied to a particular employer, thus making them all the more vulnerable to exploitation in the employer/employee relationship.

CHAIRWOMAN WRIGHT: Then I would go back to what Russell Williams was talking about regarding the protection of these workers when they come in. Would they not know up front the time span in which they would be in the United States? Wouldn't they know that they were going to return?

MR. SCHEY: I would say that 100% of these workers in the H2 program know that they have a definitive date upon which their temporary stay in the United States will terminate. The problem is in the nature of exploitation that they face. Firstly, it is the total and arbitrary power of the employer to threaten them day by day with deportation because by terminating the job, you terminate their right to be in the United States. Their visa is tied to the good will of one particular employer.

Secondly, we have dealt with innumerable cases in which people have been brought into the United States by a particular employer, only to find the employment was not available for 30 days, 60 days, 90 days, or 120 days and they are essentially left to languish while awaiting to commence a particular type of employment. And finally, we have found that this group of workers are markedly more than the undocumented worker subject to ongoing exploitation by the employer. They are basically ...

CHAIRWOMAN WRIGHT: Well, the points that you're telling me, would you consider them the exception or are they norm to the program?

MR. SCHEY: I think it's generally the norm of the program. We repeatedly find that these H2 workers are not paid their salaries. They are totally unfamiliar with the mechanisms

whereby they might file an administrative complaint with the Department of Labor. We find repeatedly that these workers are subjected to living in conditions which are totally unsanitary. Again, they are unfamiliar with the mechanisms by which they might file an administrative complaint with the Department of Labor.

CHAIRWOMAN WRIGHT: All right, then do you think it maybe would be necessary, if not for the economy of the United States, at least for the economy of California that we have some kind of a program to bring in these seasonal workers? Do you feel that it would be necessary to ensure in the legislation that, in fact, the State of California and the nation of Mexico, for example, would have to have some kind of policing force to ensure that indeed these people were not exploited?

MR. SCHEY: Well, while noting for the record the fact that our research indicates that there is, at the present time, not the need which the growers would claim that there is for additional numbers of foreign temporary workers. So, with that caveat, if one were to assume that, in fact, the labor need does exist under that set of circumstances, I would feel that it would be crucial if the great majority of these workers are to come from Mexico, which has been the historical experience, and if the great majority of these workers are to come to California and other states in the Southwest, which has been our experience, I would think that it would be more than important that those governmental units have some role to play in ensuring that those workers are not subjected to violations of either federal or

state laws and that the processes of remedial action is somehow very forcefully brought to the attention of those workers so that if a worker is forced to work 12 hours a day, 7 days a week, without any added compensation, they know that there is a particular place that they can go to confer or to make a complaint in some administrative process regarding their treatment. I think perhaps even more importantly than that would be a system whereby that could be done without that worker then facing imminent loss of the job and imminent deportation back home. In other words, that worker, one way or the other, has planned to spend six months or nine months or twelve months here in the United States. It seems to me you at least need a prophylactic protection so that that worker could bring to the attention of the authorities those types of abuses without immediately suffering a retaliatory loss of employment and a retaliatory expulsion from the country. None of those types of prophylactic measures are present in the Senate version of the proposed expanded H2 program.

Of course, in addition to expanding the H2 program, the bill also seeks to create a brand new temporary worker program under which approximately 350,000 workers could be brought into the United States for nine months at a time.

In a recent meeting that I, with others, had with Senator Pete Wilson, we pointed out to him that in every other country in the developing Western world that has initiated large scale temporary worker programs, including this country during the experience of the bracero program, the great majority of

these workers never went home, but instead they developed community ties and they developed relationships in the United States such that they went from being temporary workers in this program to being undocumented workers. Well, his response to that was, "Well, we'll prevent that, as is now memorialized in the proposed legislation, by taking 20 percent of their income and holding that in an escrow account." And our response to that was that for a worker who essentially faces severe unemployment, hunger, malnutrition, homelessness for himself or herself and his or her children in Mexico, to come to the United States and have 20 percent of their wages withheld, and then at the end of the nine month working period to have the option to either recoup the 20 percent by returning to Mexico or by continuing to work in the United States in an undocumented status, I would say that 99 out of 100 immigrants that I've had experience with will simply opt to remain in the United States.

So, I think what these proposals, ultimately, are going to buy for the United States, and more particularly for California, is really in 2 or 3 years, as this program flushes 350,000 people a year through its processes, I think we're going to buy a very dramatic increase in the number of undocumented people living in the United States, and I think, tragically, we're going to set the stage where 3 years from now, a lot of proponents of this legislation are going to come back and say, "Now we really need repressive legislation because things were out of control three years ago and now they are really out of control."

I would point out that the Department of Labor, under prior administrations, has often concluded that the use of temporary farm labor lowers the prevailing wage rates. Former Secretary of Labor, Raymond Marshall, states that expansion of any of these temporary worker programs "can only lead employers to prefer such workers to the detriment of low-skilled U.S. workers."

And I would also just point out, at the same time, that one of the primary public relations positions, put forth by the proponents of this legislation in Congress, is the fact that there are 6 million - approximately 6 million - undocumented people in the United States. Now, of course, that figure is somewhat - everybody has different perceptions - but the proponents of this legislation, and the Immigration Service, generally argue that there are approximately 6 million to 8 million undocumented people in the United States. With that number, it's really hard to conceive how they can be so forcefully pushing for a new program to bring in temporary workers.

The second aspect, which I'll be very brief on, is the amnesty, or legalization, program. We believe, based on our careful analysis of the proposals in both the Senate and the House, that, at most, 200,000 people will qualify for the program. So that, under the estimates of the Immigration Service, that might leave 5,800,000 not qualifying. The General Accounting Office, itself, did a study, approximately 18 months ago, analyzing Senator Simpson's previous proposal - which was

slightly more liberal than his present proposal - and they estimated that 300,000 people would qualify. Now, I understand that many people would say that 300,000 people qualifying is 300,000 too many. From our perspective, if one is going to have a legalization program, one is going to buy into the philosophy that we need to take care of this tremendous population currently living here in an underground status - and try one way or another to start anew. Our sense is that one has to do that in a fashion that is going to address more than 5 percent of the undocumented population.

Finally, there's been much talk about the employer sanctions aspects of the bill. Aside from the enormous cost of administering this program, estimated at more than \$100 million per year, in our judgment, it was intentionally (or unwittingly) designed under intense pressure from the growers not to work.

Twelve states have already implemented employer sanction laws on their books and none have had any impact, whatsoever, on the flow or employment of undocumented workers. The reality is that a number of Western European countries have attempted to implement employer sanctions and that has been equally unsuccessful. The penalties for the violation of the Simpson employer sanction provisions are so light as to ensure no voluntary compliance with the law whatsoever. Even with an appropriation of \$100 million per year, the Immigration Service would only be able to inspect a minuscule number of worksites employing undocumented workers, and, therefore, the cornerstone of the program would clearly have to be a voluntary compliance.

Employers who have not paid federal income tax for many years, because their workforce is undocumented would have a particular interest in joining in pacts with their workers to hide their status from the authorities. The due process protections provided to employers charged under the law are so thorough that few employers would ever receive even a small fine. One would think that they'd hired the best Harvard Law School professors to write up their due process protections in this law. And, those who did - those who received small fines - in our judgment, would simply pass these costs of doing business onto their workers in a form of production speedups, or decreased wages.

Now, if I might just spend two minutes telling you a little about some of the alternatives that we see ...

CHAIRWOMAN WRIGHT: I was hoping you would do that because it seems as though you don't like any part of it, so I was wondering what you would suggest?

MR. SCHEY: That's right. Firstly, we believe that there needs to be what we would call a statute of limitations preventing deportations. We believe that that is really even more important than the concept of an insincere one-time amnesty program. The reality is that even if all these aspects are put together, it is not going to stop the flow of immigrants across our borders tomorrow or next year or in the next couple of years. And it seems to us, just as in the criminal laws you have a statute of limitations, it seems to us that in the deportation or immigration law that people develop community ties, that if they have not become risks to the national security, if they have not



committed serious crimes, there ought to be a relatively humane and rational statute of limitations.

Secondly, we believe that the primary notion that employers hire undocumented workers, is because they can exploit them or take advantage of them more easily than they could a U.S. worker.

If that (and that seems to be the current theory no matter who you speak with) is the motivation behind the hiring of undocumented workers, we believe that the only method of resolving that motivation is to provide full protection of existing labor laws to all people, regardless of their immigration status. If the undocumented worker has full protection of the labor laws, such that when he or she is exploited, he or she can turn to the Department of Labor, or the appropriate agency, just as a U.S. citizen could, it seems to me that at that point, you begin to dissipate, or take away from, the desirability of hiring an undocumented worker.

Thirdly, we believe that there should be an end to the temporary worker programs. We believe it needs to be carefully examined by Congress, a nonexploitive developmental program to major sending countries. Obviously, - I think you mentioned this earlier - looking much more seriously at the sending communities and what can be done from an economic developmental assistance standpoint.

Next, we believe that to the extent that certain people come to the United States, for example, hundreds of thousands of Salvadorians have come to California; large numbers of Haitians

have come to Miami, Florida. We believe the federal government needs to look very carefully at the human rights records of those governments to determine what linkage there is between the human rights records of the governments of these countries and the outward flow of refugees, many of whom come to the United States.

Finally, we believe that efforts have to be made to restructure the quota system because the other side of ...

CHAIRWOMAN WRIGHT: You are talking about quota increase?

MR. SCHEY: Basically talking about an increased quota. At the present time, if I might just explain this, the quota for each country is 20,000 people per year. Now, that means that a Mexican national, whom I represent, who is a woman whose husband has a green card and she maybe has two children born here in Sacramento, or San Francisco, or Los Angeles, that woman is looking at maybe a 14-year wait to obtain her visa to live lawfully in the United States. So, her option is to either live in Mexico separated from her immediate family, or, alternatively, to live here with her family in an undocumented status. And I can tell you that 95 out of 100 people choose to live with their family members, recognizing that they're doing so in violation of the administrative laws of the United States. At the same time, if I have a client from Balisse, the exact same family situation, that person might be able to get her visa in 30 days.

That law has only been in effect for about 10 years. I think it's time we examine that law fairly, and reach the conclusion that it has not worked. It has precipitated

undocumented migration into the United States by cutting off lawful channels of immigration or, I should say, not really cutting them off but postponing them for 10, 12, 14 or 15 years.

CHAIRWOMAN WRIGHT: How would you feel if it were a situation where we were talking about a total number of immigrants into the United States, and then we did it based on the size and the population of the country who wished to send people into the United States?

MR. SCHEY: I don't have any ...

CHAIRWOMAN WRIGHT: Then there might be some flexibility in the numbers.

MR. SCHEY: I don't have any information, or hard ideas, on where the total numbers should be placed, but assuming that Congress deemed it advisable to set a total number, which I'm sure it would, it seems to me that it makes eminent sense to then set quotas per country on the basis of the number of applicants that perhaps were submitted in the previous twelve month period.

Now, that does not mean that everybody can rush to a U.S. Consulate or U.S. Embassy to apply because the first 100,000 applications I think would basically remain intact, which means in order to immigrate, you need a close family member (a brother or sister), or you need a unique labor skill. So, those substantive requirements would remain in place. All the people I have referred to who are on these tremendously long waiting lists, have all qualified for a visa, but they're simply waiting for 10, 12, and 15 years to obtain their visas.

So, even without tinkering with the substantive qualifications, I think if the quotas were restructured, so as to recognize, "Well, we only have 10 applicants from Balisse this year but we have 100,000 from Mexico, based on family relationships, let's get on with the business of documenting those people and not force them to live in the United States for another 10 years in an undocumented status."

CHAIRWOMAN WRIGHT: Thank you very much.

MR. SCHEY: Thank you, Ma'am.

CHAIRWOMAN WRIGHT: I am so pleased to note that the Honorable Dan Lungren, Member of Congress, is here and I'm going to ask him to come forward now. It's just too bad, Dan, that you weren't here this morning. We've gotten all sides of the issue. But, we certainly would like an update.

CONGRESSMAN DAN LUNGREN: I brought copies of my testimony.

CHAIRWOMAN WRIGHT: Oh, that'd be great. Thank you.

I'm sorry that some of the other members of the committee haven't returned yet, but they don't know what they're missing.

If you could, and I think you can appreciate this, because we do have so many other witnesses, but if you could summarize, basically, what you have in your presentation, then we would make your presentation a part of the record.

CONGRESSMAN LUNGREN: Good.

Thank you, first of all, Madame Chairman, for having this hearing. We've spent a number of years in Congress trying

to raise the issue so that Congress might recognize that it is one that is necessary for action and it has been a difficult pursuit and I'm pleased to see that the State of California, through this legislative hearing, is also seeing that it is important for concern and also to find out what is happening in Washington and how that would delve with, or attempt to try to mesh with, what is taking place on the state level.

It is interesting that about 7 years ago, when I went to Congress, I made a decision to get on the Immigration Subcommittee, and that is because it is not a subcommittee that a lot of people try to get on, I suppose, because it is one of those issues that really is so sticky from all sorts of perspectives. That may be the reason why we don't do anything or haven't done anything in Congress for so long. But I did it because I heard from people around my district, and outside my district, about their concerns. It may not be the No. 1 and No. 2 and No. 3 issue; I mean, it may not be as prime a concern with people as crime, the economy, war and peace relations with the Soviet Union, but, surprisingly, it comes just about next in all types of gatherings.

And so when I got involved, I found out that initially the perspective from Congress was eastern, or East Coast, perspective. Congress was acting, both in terms of its actions and in terms of its membership on the appropriate panels, as if most of the people who come to the United States, both legally and illegally, pass under the gaze of the Statue of Liberty and came through Ellis Island. In other words, Congress,

unfortunately, at some times is about 30 years behind the times. The Chairmen of our Committee and Subcommittee dealing with that, seem to be from the East Coast - from New Jersey, New York, from Pennsylvania with very little representation from our area. That is changed. I suppose that one of the reasons it's changed is because of what happened with the Maryelle Boatlift. That crystallized the concern about immigration law and it also provided a push from members from Florida and Texas, and so forth, to become involved as well.

So, we began to have, at the same time, things happening on the executive branch level. At the same time, as you know, we've had continued illegal immigration - over one million undocumented aliens coming across our southern border. So, the issue has been raised. The problem has been a lack of consistency in terms of viewpoint and in terms of commitment on the federal level.

Last year, for the very first time, we did something substantial; we did something that everybody seemed to agree on. They disagree on just about everything else but everybody agreed that we needed more Border Patrol. We needed more reinforcement, so to speak, and so the administration pushed a successful proposal through the Congress where we added approximately 1,000 new positions to the Border Patrol. During this fiscal year they are coming on board. I will have to say that it is my judgment, and the judgment of those on the subcommittee and the full committee and the administration, that no matter how much we increase the Border Patrol, that will not be sufficient to do the

job that is necessary. It doesn't mean that we ought not to put more resources in the Border Patrol and the INS, completely, not only for enforcement, but also on the service side.

We worked very hard in the last two Congresses. We passed bills in the Senate. We finally were successful in passing a bill in the House last time. We went to the Conference Committee. We tried to unravel the differences. The one thing that proved to be our undoing was a provision dealing with alienage - the so-called Frank Amendment which dealt with a new enforcement mechanism for the possibility of any discrimination based on alienage, not on national origin, or race, or color, or creed, or sex, but alienage. That became very controversial. It was something we had not had many hearings on - in fact no hearings - in our Judiciary Committee - none in the Senate - and it became the reason why we couldn't complete the conference after a month. I will say this, it was not in substance the reason; there were some who felt so strongly that we couldn't deal with it, but others used that as the mechanism for our downfall, and I don't question their sincerity. Some believe we ought not to have a new bill.

So, we are not starting this year without a background. We're not starting with a totally clean slate. We've been through this process several times. The Senate has already passed a provision, a major bill, by a substantial margin. We were to have begun markup this last week in the subcommittee. Because of other reasons, we were not able to do that. We'll convene at 1:00 o'clock on Monday, and we'll begin markup in the

Judiciary Subcommittee. We hope to finish it within 3 days in the subcommittee and then move it on to the full committee. Peter Rodino had suggested, at one point, that we could have the first week in December to move on it.

Although I have a particular bill, you have requested in your invitation that I might talk about the Simpson Bill in the Senate and the Rodino-Mazzoli Bill in the House. So let me do that.

If you look at those bills - you look at my bill and some others as well - you will find that they're all the same in one very major characteristic, and that is they are comprehensive. I think we've finally come to the position in the Congress where we recognize that the comprehensive nature of the bill is important. Some would like to just have legalization; some would just like to have employer sanctions; some would just like to have increase in Border Patrol; some would just like us to streamline our procedure in terms of the administrative side of it; some would just like to have some sort of guest worker program; but, I think there is a general recognition that all of those parts are stronger in concert than individually. Truly they are synergistic. And practically, from a political standpoint, if you did any one of those, outside of increasing the Border Patrol, you would not be able to pass both the House and the Senate.

CHAIRWOMAN WRIGHT: Excuse me. How much input have you had from representatives from the State of California?



CONGRESSMAN LUNGREN: We've had many, many different representatives from the State of California. I don't mean officially from the government, but I'm talking about grower groups, people from farm worker groups testify before us. We've had, on a regular basis over the past number of years, people from the State Legislature appear before us; we've received information from the Governor's Office about positions that the Executive Branch has taken on particular matters before us. So we have heard from California, and I think we've heard from California as much as any state in the Union, really.

CHAIRWOMAN WRIGHT: Because our feeling here was - and in listening to some of our presentations this morning - that certainly if we had input, it doesn't seem as though it's made any impression on the legislation as it is proposed right now.

CONGRESSMAN LUNGREN: Well, I can say this: The fact that people testified doesn't mean that what they testified to is necessarily going to be adopted by a consensus, but I don't think we have had a lack of hearings. This year, we made a conscious decision not to repeat everything that we'd heard in the last Congress and the Congress before that. We attempted to go into some of the most controversial proposals, and we also asked if people had any additional information or insights, so some, I suppose, this year, would say they weren't able to testify and, therefore, we didn't have the benefit of their testimony. I don't believe that's really true.

CHAIRWOMAN WRIGHT: Well, if you don't mind, what I would like to do is, basically, throw four questions out to you.

CONGRESSMAN LUNGREN: Sure.

CHAIRWOMAN WRIGHT: Those questions are based on what we were hearing this morning, and then evidently they've come before your committee, and I would like to know what the thoughts of the committee were and how they responded.

I guess the first thing we're hearing is that certainly if you should expand more control along the borders, that it's like damming - if you dam up, it's going to overflow because you haven't addressed the real issue. How do you respond to that particular point?

CONGRESSMAN LUNGREN: Well, you have to both try and control the borders and do something to affect those things which cause people to come here. The sociologists call it push and pull factors - the push factors are the indigenous reasons why people would leave certain parts of Central and South America, for instance - poverty, lack of educational opportunity, lack of political stability, etc. I would be, I think, honest in saying that we can only indirectly affect those things. For instance, the Caribbean Basin Initiative, I think, is a very good initiative to try and help that part of this hemisphere. Efforts trying to deal with Mexico in developing their economy, are very important. But, if we've learned one thing over the past number of years - even from our Vietnam experience - it is that we can only indirectly affect those things. While we try to indirectly affect those things, and realize those are long term, I think we have an obligation, as a sovereign nation, to do those things short term that are in our own national interest, and that would

be to affect what I call the - or sociologists call - the pull factor. They want to leave other places. We can try, indirectly, to affect those factors.

Do they want to come to the United States? They primarily want to come to the United States - and this is the group we're talking about; we're not talking about refugees, we're talking about immigrants because we have a different program and policy with respect to refugees - they come here for economic opportunity, and as long as the magnet of jobs is still available, it doesn't matter what you do, they're still going to come. So, that's why there has been a consensus which has developed, which suggests that an indispensable part of any immigration reform is using employer sanctions. You do both - you can't do one without the other, and if you talk to Border Patrol on the line, they will tell you that it is the one indispensable tool that they've been denied thus far.

CHAIRWOMAN WRIGHT: All right. The other point is: Have you, in any way, had any discussions with the legislative representatives of Mexico, because we've been very fortunate in having Senator Ramirez from Mexico City here and one of the things he said is that his government, their policy, is that they want to export products, not people.

CONGRESSMAN LUNGREN: Correct.

CHAIRWOMAN WRIGHT: Have you ever sat down and talked with them to get a feel of how we could be more helpful so that their people would stay on the other side of that border?

CONGRESSMAN LUNGREN: I would say that there are members who have had informal discussions with members of the government of Mexico; we've never done it officially as a subcommittee or committee. I have, in the legislation introduced and had adopted in the last number of years, the establishment of a bilateral commission; that is a commission between the United States and Mexico for consultation purposes. I wanted to have it deal with more than the intricacies of a guest worker program or specifically talking only about the numbers of people that would be allowed into this country. I wanted it to be more fully a consultive bipartisan commission, but that brings up a whole lot of jurisdictional problems that we have among our committees so that we might never get the bill out. So, it is limited thus far to really dealing with the question of the implementation of any sort of guest worker program and the overall construct of the question of how illegal aliens are treated in this country.

Let me respond this way. I remember I asked Lionel Castillo this. He is the only Hispanic head of the INS we've ever had, to my knowledge. He was the INS head under Jimmy Carter, and I don't want to suggest that he supports this bill, but - I don't want to speak for him - I did ask him one time about why we didn't appear to get much help from the Mexican Government in terms of controlling our mutual border. He said, to paraphrase, "You know, there they are a developing Third World country, right up against us with almost a 2,000 mile border with the most highly developed economic power in the world," and they

look at us and they say, "Look, if you people can't control your borders, how do you expect us to do it? When you get serious about it come back and talk to us because we will then know it's something worthwhile talking about." I think there is some merit to that argument. How can we go to the Mexican government and say, "What are you going to do to help us control our borders," when we can't even do it, when we're not serious about it.

CHAIRWOMAN WRIGHT: The third question, again, gets back to the guestworker program, or whatever title you want to give to it. We hear two sides. We hear from our agricultural interests and although we don't feel as though the immigrant coming over the border from Mexico is just dealing in agriculture, we see them in our tourist industries, in our textile industries, in our horse breeding industries, but basically we hear from our agricultural industry and they are saying that they could not function without this sort of program - seasonal workers. On the other hand, we hear from some of the union representatives that say, "No, really there are people here in the United States that don't even have jobs and that by bringing in these seasonal workers you're taking work away from farm workers, if it happens to be, or factory workers that are already here."

Do you have any statistics to substantiate either side, or what is your response to that?

CONGRESSMAN LUNGREN: Well, the problem, to answer that first, yes, we've heard from all sides. There's more than two sides in this part of it, as with the rest of the immigration question, and there are disputes that remain. The problem with

asking what the statistics are is that we are basically faced with the question of the great unknown. We don't know how many illegal aliens are in the United States. We don't know how many of them are employed. We don't know how many of them are in California. We don't know how many of them are in agriculture; we don't know what percentage. I can give you some estimate. The best estimates that I can come up with from the INS are of the illegal aliens in the United States working; no more than 15 percent of them are working at agriculture, 85 percent are working in other areas. However, in terms of a percentage of the work force, it does appear that a large percentage of the agricultural work force in California/Arizona is made up of illegal labor. The estimates we hear from some of the growers, and they would only say this privately a few years ago when they were so gun-shy, now they will say it publicly, is that somewhere between 50 percent and 60 percent of the agricultural work force at harvest time they believe are illegal. I can't tell you whether or not that's true. I don't know. If you talk to some union representatives they will say that it's much less than that or some will anyway. I found that dealing with immigration, you've got to take everything with a grain of salt. I can give you any estimate from two million. Well, actually, there used to be an estimate of about a half a million illegal aliens in the United States all the way to twelve million, and one representative of the AFL/CIO said that there are 15 million illegal aliens in the United States. I don't know how many there are. Anybody that tells you that they know, doesn't know. The

Census Bureau makes their estimates, but by law we did not allow them to ask anybody whether or not they were here illegally so they had to make some computations. I would just say this, it seems to me, my observation from having been out in the fields and talking with people, is there is not an unsubstantial number of people in the work force in agriculture who are here illegally.

The studies seem to suggest that we have had people from Mexico, but also from other countries, but let's just talk about Mexico. In California, what is now California, at least since 1880 on a transitional basis, many are working in agriculture. The fact is, that many people on the growers' side believe that we would leave them naked against their needs if we were to cut off the entire illegal alien flow and not give them a recourse to some sort of temporary program. Again, I hearken back to Lionel Castillo. He said while he was the INS Commissioner, "Look, there are guestworker programs in the world; the largest one in the world is in the United States, only it's called illegal aliens." I just know as a fact that there are illegal aliens here working in agriculture, working in horrendous conditions. I've been down to San Diego. I'm sure other members of the State Legislature have been places, seen these spider holes. These people aren't living there because they want to live there. I mean, you don't build yourself a little three foot deep box that's like a coffin to live in and to hide from the INS and hide from coyotes and hide from people who would do harm to you because you like to do it. You do it because that's the only

thing available to you. It just seems to me that there's a better way of doing things, and we had a bracero program that in many ways didn't work very well and allowed people to exploit those who came from Mexico. Frankly, those people can be just as badly exploited, if not exploited worse, under conditions that presently exist, and maybe I'm just naive but I just happen to think that if you have a regulated program by the Federal government, which is reviewed on a yearly basis in which we determine the numbers in consultation with Mexico as to the numbers that will come and we have some restrictions which require them to go back to their home country or lack of participation in the future in that program, that that's a lot better than what we have now. If you ask me, "How many people would it be?" I don't know. That's why I would like to set up a program that on a yearly basis would be determined by the Attorney General of the United States and consultation with the Secretary of Labor and the Secretary of Agriculture because I don't think we can know. I would be very happy if the number was zero. If the number is zero and all those jobs can be filled by American workers, unionized or nonunionized, I'd be most happy because I think that would then even be a greater deterrent to more illegal immigration. I'm not a Pollyanna. I don't think that that's going to happen, but if that happens, let's set a system up where if it's proven we don't need any, and maybe we only need it for a few years because maybe we will, because of a legalization program and because we've settled down on the whole recourse deal, legal immigration as a work force in the United



States, that perhaps some housing conditions will improve and working conditions might improve and recompense would improve because that's the argument of some on the other side from what I'm trying to do. They say, "If you just do those things we'll take care of the problem." I'd be very pleased to see it happen that way, but I just know, I've had figures, as I say, on illegal immigration from virtually zero to 15 million.

We've got estimates from the Urban Institute in Southern California that there is a zero displacement rate of illegal immigrants of American citizens and American nationals from jobs. A professor at Rice University, Huddle, who says "It's sixty percent displacement." To the Department of Labor they say, "It's a forty percent displacement." Now, I think it's some place in between. I don't know where it is, but I do know there's some displacement because common sense tells me there is some displacement. It just seems to me we ought to set in motion a program that allows us to work away from that sort of uncertainty in the law and uncertainty in the facts that presently exist.

CHAIRWOMAN WRIGHT: Did I misunderstand you or did I hear you say that in working out this guestworker program that it would be in consultation with Mexico? Is that what I heard you say?

CONGRESSMAN LUNGREN: Well, what I've said is that every proposal that I've had establishes a bilateral commission with Mexico, which would require us to review with them annually as to their ideas. We would not be bound by that because we're a sovereign nation. It just seems to me that if we really want to

make it work, it would be better to have their thoughts in mind at the outset and as the program continues.

CHAIRWOMAN WRIGHT: And the last question was dealing with amnesty. We've heard those who think it's a good idea, and we've heard presentations of those that...where do you start? Do you just pick a date out of the air and decide as of this date anyone who has been here before that becomes a citizen, anyone after that date does not become a citizen. How did you arrive at that determination?

CONGRESSMAN LUNGREN: First of all, I make it very clear. I use the word "legalization" rather than amnesty.

CHAIRWOMAN WRIGHT: All right.

CONGRESSMAN LUNGREN: And not just for semantical reasons. I think there is a difference. I think the idea of amnesty conjures up the idea that if you get your foot across the Rio Grande tomorrow we're going to legalize you through an open-ended amnesty program that is general in nature and has no individual review. I think you have to proceed from two assumptions: One is that there is a very strong feeling among the American people, which is legitimate in my judgment, that you ought not to reward people who break the law. I understand that. The other one is, and this is supported I think by polling data as well as just my own observations from talking with a large number of people on this, we recognize that there is an essential justification for allowing people who have been here for a long period of time, even though they came here illegally, have become part of the fabric of our society, have not broken law, have not

become welfare wards, who have made a real effort to become acclimated to our society, to learn English, to understand our history and government. Those people we ought to make an exception for because they didn't come in through the front door and they did come in the back door, it is just for us to require certain additional obligations on their part for the process of legalization. At least, that's where I start from and just quickly I'll give you some statistics on the national polls that were taken, a New York Times poll that was taken not long ago, about two years ago. It was very consistent with the Field Foundation poll taken about two years ago.

First question asked, "Do you think we ought to deport illegal aliens - people who came here illegally?" About 71 percent of the American people said, "Yes." And that's basically broken down - black, white and Anglos - almost the same. Next question, "Should we make an exception for those people who have been here five years or more who have learned English, or learning English, and have become members of our society? About 65 percent to 70 percent said, "Yes." Initially, you might think it's inconsistent, but I think it's a deeply held feeling on the part of the American people. I think that has to guide you. You're making an exception because it goes against the normal thought we have about not rewarding people who break the law. It ought to be a one time exception. It ought to have a date which suggests the people have been here long enough to make a long-term commitment to the United States, not merely for convenience purposes. It ought to be conditioned on the fact

that, in fact, they can take care of themselves because that's what you require of people coming here legally. They have not been criminals either in their home country or here in the United States, and that they will make an effort to either know English or learn English. We make exceptions in our law for those who are aged and know American history or are learning American history, because that's what we require of people who come through the regular process.

Additionally, what we have said in our legislation is that they should be disabled from receiving health and welfare benefits except for an emergency nature for a period of time. I think, one, it gives lie to the argument that they're here for welfare, and two, it is an obligation that, in essence, they should have if they come here through legal channels because when you're sponsored to come into the United States, if the law works the way it is supposed to, and I will grant you that it hasn't in many circumstances, you're supposed to have a sponsor who is responsible for you, not that you come into the United States and you immediately go on welfare. That's what we're supposed to require of people who come in the regular way. And so I think if you set those things up that is a workable system. The bill in the Senate has a 1980 date, the House bill is a 1982 date. There will be an effort to move the House bill in both directions. My bill has a 1980 date. That's basically the date I had last time. I mean, I'm willing to show flexibility and bring it up. I think it is important, though, that you have to have a period of time, and the polling data seems to suggest that people think that five

years is a substantial period of time. The precedent in law is if you've been here over seven years in an illegal status we grant the discretionary authority under current law to the Attorney General for humanitarian reasons to allow you to come in. I think we need something that is around five years, and you say, "Do we pick it out of the air?" We didn't pick it out of the air except that we tried to come up with something that met the criteria I tried to articulate.

Could I just say one last thing?

CHAIRWOMAN WRIGHT: Oh, sure.

CONGRESSMAN LUNGREN: To those who say that legalization doesn't make sense, I have to ask them, what is the alternative? Frankly, in my judgment rounding them all up and sending them home, and we're not going to do that because ... you know, you're not just talking about ... a lot of people like to talk about it in theory and they think, "Oh well, sure I'll allow them to do sweeps in the barrio," which I don't think we would allow as a nation. If you really mean it, what you're talking about is sweeps in the neighborhoods of Beverly Hills and certain areas of Sacramento and Long Beach and Newport Beach because we know what's going on. Nobody's going to stand for that. We had in the early fifties "Operation Wetback" in which we had a massive deportation. That didn't solve anything. I just don't think Americans would stand by and do that. And the funny thing I found in the Congress is that as many people who are against legalization still come before my subcommittee and ask my support on private bills to legalize people who they think we should make

an exception for. We normally remind them of the inconsistency when they come. In fact, we've gotten some ...

CHAIRWOMAN WRIGHT: I think, again, it gets back to some of the information being passed out through the media when they say amnesty because amnesty doesn't set well with me, I would tell you that. Explanation of illegalization does.

CONGRESSMAN LUNGREN: I didn't go to Congress prepared to support amnesty. I didn't go to Congress prepared to support employment sanctions, but I've just tried to look at all the alternatives and I don't see any other alternatives. This is not a perfect bill. Anything we come up with is not going to be perfect. All I'm looking for is something better than what we have now and better in a substantial way.

CHAIRWOMAN WRIGHT: I understand that you're also, and I don't know if it's through your committee, but you're also looking at ways in which to aid the economy of Mexico in order to ...

CONGRESSMAN LUNGREN: That's a commitment I think generally speaking that we have. I'm not on the particular committee or subcommittee that does that, but in discussions, one of the things we've tried to do is articulate that so that all the members will realize what we're talking about and, hopefully, if other legislation comes by or, in fact, when the administration comes by for certain foreign aid programs, not only that we don't necessarily hold our nose and say, "We can't possibly support that," but we also look at that in the way in which those monies are being funneled. Some people say, "Well,

the best idea for us is to encourage Mexico to have assembly plants right on the border that are like brother plants with those on the American side." Some say that is the worst thing because you draw even more people to the north of Mexico and maybe the best thing is for us to try and get investments into other parts of Mexico where the people are, or have been, instead of them driving forward. There's a lot of information out there about the villages that send us people, about why they come, and so forth, and I think we ought to act on those things.

I use Father Hesburgh's expression. I want to close the back door of immigration, illegal immigration, so the front door will stay open. I do not believe in the principle that this country ought to draw up the draw bridges over the moat and say, "Enough." I mean, you can tell I'm not a native American. I came from Irish and Swedish immigrants. Virtually, a large percentage of us did, and I think it's kind of elitist for us to say, "We're here, sorry for the rest of you." At the same time, we have to recognize there are limits, and the American people will not accept everyone who wants to come here. When they were having the vote in El Salvador, SIN (Spanish International Network) did a survey of those people who stood in long lines for hours under threat of guerrilla action, but voted anyway. And the remarkable support for what was going on down there, confidence in the efforts down there. They didn't believe everything was beautiful, but they thought things were getting better, then they threw in a last question, kind of as a throw-in. It said, "Would you rather be in the United States and

would you go to the United States to work?" Seventy percent of the people answered yes. This is where everybody would like to be. We have to recognize not everybody can be here so we have to set some humane guidelines to try and make sure that this country is still a country of opportunity for immigrants around the world.

CHAIRWOMAN WRIGHT: Since there were some negatives in regard to the former bracero program, do you feel that there are enough safeguards built into what is being discussed now that that will never happen again?

CONGRESSMAN LUNGREN: It all depends on who you talk to. I mean, there are so many different things being discussed right now. I would argue that one of the major problems of the old bracero program was the indentured servant relationship. That is, you were tied specifically to a particular employer, and it seems to me that if I were tied to a particular employer I would be less likely to make a complaint about that employer than if I had some flexibility of movement, some mobility. It seems to me that's very, very important. There's some argument, and I flew out on the plane today with Congressman Berman, who has a different viewpoint than I do, and he has a concern about ...

CHAIRWOMAN WRIGHT: I would hope he did.

CONGRESSMAN LUNGREN: He has a concern about it being "grower driven" as opposed to a program that only allows those numbers that are absolutely necessary. I'm not so concerned about it being "grower driven" or anything else, I just want to have a system that is better than what we have now. Believe it



or not, he and I were even talking about seeing if we could work out our differences. I'm not going to be overly optimistic about it, but I think he saw some of the points I was trying to make, I saw some of the points he was trying to make. I can't compare it to the ideal situation, I can only compare it to what's existing now, and I will not support a program that demands people are unionized when they come in. I will support a program that gives them the opportunity to be unionized. I think, frankly, that if you came here and you have a union status you have a greater ability to exercise your judgment as to whether you want to be unionized or not than if you're here illegally. It seems to me that if you're here illegally, the last thing you want to do is give another form of identification that might reveal you as being here illegally. In short, no, we haven't satisfied everybody. I don't think we've satisfied anybody.

CHAIRWOMAN WRIGHT: Isn't that the sign of good legislation? We don't satisfy anybody.

CONGRESSMAN LUNGREN: I don't know. I had a town hall meeting in which I discussed the issue and the headline in the local paper was, "Lungren attacked from left and right." So, either I'm completely wrong or maybe we've forged a middle ground.

CHAIRWOMAN WRIGHT: I'm going to ask you one more question and then I'm going to let you go, unless Assemblyman Bane has some questions for you.

The last one is in regard to quotas. We've also heard people who have said they feel that the quota should be raised.

If you got the tail end of the discussion of the last gentleman who was discussing something I had thrown out to him, the idea of having the total quota and the flexibility was in that quota for different nations that have more people who want to come to the United States and whether they're qualified to come to the United States.

CONGRESSMAN LUNGREN: Well, let me say a couple of things on that. One is, I think we ought to look very seriously at the whole question of numbers coming in under record (inaudible) ... legal quotas today in the present system. The practical fact of life is that Chairman Peter Rodino is adamantly against us even looking at it, and if we look at it in the form of any legislation, he will not bring it up to the full committee. If it passes in the full committee, he will not bring it up on the floor. And if it passes on the floor, it will go to conference. Even though I think it's something we ought to look at, I recognize that if we're going to get an overall immigration bill through it will not be in this bill. I have the commitment of the Chairman of our subcommittee, Ron Mozzoli, that we will, in fact, hold extensive hearings on that question and try to form some legislation.

You have to realize that before the 1970's we had a bias in our laws toward Eastern Europe in terms of where people could come. I don't know if you want to call that racist, or prejudice, or whatever, it's a fact of life. I guess it's really a reflection of where the majority of Americans' ancestors came from. We tried to change that in the 70's and go to a worldwide

quota and set a 20,000 figure for every country within hemispheres. What we did, wrongly in my judgment in doing that, one of the consequences, was cutting in half the number of spots available for people from Mexico. In my bill and in the bills I believe that are before us, and if not I will amend them because we've been successful in doing it before, we double the numbers given to Mexico and Canada. We do that because of the symmetry. We also throw something else in there, those unused by Canada would then be used by Mexico during that particular year. It just seems to me a recognition of the fact that that's the biggest sender country that we have.

I think we should continue to have a worldwide quota. Whether we ought to do it in a little different fashion than we do now I'd certainly be open to looking at that.

The second thing we have to look at is the preference system. It's a very touchy political question because if you look at it right now, we basically have a situation in which the number one driving force in legal immigration is family unification, which I think should remain. We also set aside a certain percentage for those who are what is referred to as "seed immigrants." They have no familial ties here, and you know if none of us had our original relatives here the rest of us wouldn't be here. So I think that's important. We have some categories in those seed immigrants for those with special talents and so forth, and that helps this country very, very much.

There is a real controversy about the extent of fifth preference and that really deals with what people would refer to as extended families. How far out does the familial relationship go? In other words, brothers or sisters, unmarried or married, and if married then they bring their relatives in as well. You then multiply one by sixteen by the time you're there. Now, that is controversial and depending on what ethnic group that you're talking to. I've been visited by the Order of the Hibernians, and I've been visited by certain Pacific Asian groups and so forth who are worried about how it would affect them. You view it differently. It would just seem to me that if we have a problem with numbers, we ought to seriously look at fifth preference and see if that is giving a preference to people who, yes, are related but related in such an extended way that they ought not to come to the head of a line in front of somebody else. Also, then, what is the cap? Should the overall cap include people that come in as immediate relatives, which are not really counted in the quota now, or not and then thirdly there's been some suggestion, and I disagree with this suggestion, to go back to where we used to count the refugee numbers against the total numbers allowed in. I think we should recognize that refugees come in under very different reasons than people under regular immigration. We've adopted the U.N. protocol, which says that someone is a refugee if he or she can show that they have a well-founded fear of persecution and we establish the grounds for it. There's basically about five grounds, for religious reasons, political reasons, ethnic background, all sorts of things. We

specifically do not identify someone as a refugee on economic grounds because then you lose all definition of what refugee means, and I think that we've got to recognize that refugees really ... we respond to refugees because of the emergency circumstances of it, and if you put the numbers of refugees against the numbers of legal immigrants you're playing one off against the other. What happens is, you absolutely decrease these on the legal immigration side, or you'll decrease our response to the problem of the refugee situation around the world.

This year we will have, the administration has come to us and asked for 70,000 slots for those who are refugees. That's down from 160,000-200,000 we were having come in a number of years ago. If we had ever put one off against the other we would have had havoc with the system, and I think you'd drive the worst desires and the worst inclinations of the human spirit among Americans if you do drive those against one another. So, I would absolutely be against that even though that has been proposed and some would very much support it.

CHAIRWOMAN WRIGHT: Do you have anything in closing?

CONGRESSMAN LUNGREN: Well, the only other thing that has to do with state government is money. You probably had a passing ...

AUDIENCE: You're going to give us some?

CONGRESSMAN LUNGREN: Well, the big argument is, what should we give you in terms of any intended costs with respect to the legalization program?

CHAIRWOMAN WRIGHT: I think that is what was brought up by the Supervisor from San Diego this morning, and I would imagine the representatives from Los Angeles County would also be in that line. It is a fact that certainly there will be some burden placed upon the state and in turn upon the counties. So they were requesting that if the federal legislation freed up the federal government from any responsibility, they should at least be able to support the state and counties if they were going to pass that obligation on to them.

CONGRESSMAN LUNGREN: The official position of the counties and the cities through their mayors, and the states, including this state, as contained in a letter that the Governor sent last year, is 100 percent reimbursement. That is, as you know, we have split costs right now in terms of funding for welfare programs and instead of having that split, they want a hundred percent.

I am here to tell you that a hundred percent is not going to happen - is never going to pass and as I tried to tell the Governor's Association last year, you got what you wanted. A hundred percent of zero is still zero. And so you have the presence of these people among you and you have no additional support from the government.

I hope that we will compromise somewhere in the neighborhood of a matching grant program. I don't know what the percentage split should be but the fear on the federal level is that certain states would not be as concerned about policing their rolls if they got a hundred percent reimbursement, one; and

two, they might try and put more people on those rolls than otherwise really are the ones involved. And I can understand that.

CHAIRWOMAN WRIGHT: You say that you just don't trust us.

CONGRESSMAN LUNGREN: Well, I don't think that you ought to trust us either for awhile.

CHAIRWOMAN WRIGHT: We don't.

CONGRESSMAN LUNGREN: When we have a mutual admiration society such as that, what we need is a matching grant program. The other thing is that I will probably present an amendment to the bill to have a billion dollar annual cap for five years program of funding. Four or five years, we haven't determined which yet to finance it.

The last thing that I would just say on that is this, and I have had the representative of the Supervisors from San Diego appear before us, and that is that it is not a net loss situation for the counties of the State of California. If you go down to San Diego and see the people living in those spider holes and the INS suggests that there may be 10,000 people living there, there are no property taxes being paid for the housing if you want to call it that. Presumably, if we legalize people and have some sort of program if there is a need for guest workers and require housing in those circumstances, that is an enhancement of the land that will be valued by their county governments that will give them more revenue than they are getting now in terms of property taxes since they are getting nothing on it right now. The other thing is ...

CHAIRWOMAN WRIGHT: They will turn around and tell you they will not. The services that they will have to give in return for that dollar will not be equal.

CONGRESSMAN LUNGREN: Well, I have talked to some people in San Diego that tell me one of the problems that they have now is with the lack of any health facilities or sewer facilities in some of these areas. It is spoiling some of the water system already there and they are going to have to pay for it one way or the other. Another thing is that most of these people are working. These are good people. They are working. They are going to pay taxes. They buy things. I mean they don't live in a vacuum. I think that we ought to share.

CHAIRWOMAN WRIGHT: Fine. Mr. Bane, do you want to say anything? Thank you so much for coming. I really appreciate it.

CONGRESSMAN LUNGREN: Thank you very much.

CHAIRWOMAN WRIGHT: I'll tell you right now that we have one hour in which I am going to try to give everyone else an opportunity, so I would really appreciate it if when I do call you up that you try to keep it as brief as possible, and if you have a prepared statement, definitely give us that statement. I am going to ask for Louis Custrini and Josie Gonzalez.

MS. JOSIE GONZALEZ: I am an attorney, and I specialize in the representation of California industrial employers, principally in the Los Angeles area, who are in need of immigration related assistance. I have a diverse clientele. For example, I represent universities, hospitals, garment manufacturers, foundries, stable ranch attendants, rubber, and plastic companies. Just a wide diversity of employers.



I have taken a look at this immigration bill to see how it would impact on this employer business community. Few bills have engendered as much controversy as this immigration bill, but I must say that there does seem to be one point in which everyone is in agreement in that this bill is not a perfect bill. I must say that I do agree with Senator Simpson with his remarks when he indicates that perfection is not a part of this immigration reform legislation. Unlike Senator Simpson, however, I am not satisfied with the imperfections that exist in the bill and I am going to address those issues and explain how I feel these imperfections will impact on the California business community. And I am going to start off with some of the employer sanction provisions.

First of all, we do know that both bills provide for criminal and civil penalties for the unlawful employment of undocumented aliens. However, in the House bill, the employer is also required to attest that the worker has the legal right to work. Now this attestation must be done on a prescribed government form. The employer is required to review diverse types of documentation such as American passports, birth certificates, alien registration cards, social security cards. The employer must retain this attestation form and make it available for inspection to the Department of Labor and INS officials for a given period of years.

Now, the bill in the House states that an employer may, if he wishes, copy the underlining documentation that has been presented to him, such as the green card and social security

card. The bill seems to imply that copying the documentation and retaining that is merely optional but not really. If this bill passes, I would be recommending to employers that they retain not only the attestation form for each employee but also all of the underlined documentation. Let me tell you why.

The employer only complies with his requirement to retain documents if those documents reasonably appear on their face to be genuine. There is that degree of subjectivity built into the bill. The documents must reasonably appear to be genuine. So I ask, how is an employer going to prove to DOL and INS that the green card that they view, in his opinion, was a genuine card unless he xeroxed the card? And many employers today are just unsophisticated. As an immigration practitioner, I can attest to the plethora of immigration documents that exist that are given to aliens to show that they have the legal right to work. And these documents are constantly changing. For example, the green cards are no longer green. It hasn't been green for some time. It was various shades of green, and blue, and now it's white. You have things like Contreras letters that at one time gave employment authorization and then INS revoked it. Silva letters that for a long time authorized employment authorization, but INS revoked it. So, INS is notorious for changing its work authorization forms for giving employment authorization and then taking it away.

You have stamps on an individual's passport called I-551 stamps, that shows that an individual is a permanent resident, but that stamp is only valid for one year with the expectation

that in that year, the individual is going to get the green card in the mail. If there is a foul-up, and I tell you that often times there is a foul-up and the individual does not receive the green card, the stamp is no longer valid and that person doesn't have a way to prove that he has a right to remain in the United States and the unsophisticated employer is just not going to hire that type of individual.

That is one of the difficulties that I have with the bill: the attestation requirement, the requirement that the documents appear genuine. And then, furthermore, there is an ongoing monitoring responsibility that is built into the bill. Not only is the employer responsible at the time of hire to insure that the person has work authorization, but if that individual after being hired loses employment authorization, there is liability for the employer. As I mentioned before, with INS giving and taking away employment authorization as they often times do, if an employer takes a look at a job applicant and this job applicant has a temporary grant of authorization for, let's say, six months or one year, the employer is not going to know whether it will be renewed by INS after that grant expires. So the employer is not going to want to hire that individual. That individual, if he or she finds employment, is probably going to be limited to some type of seasonal employment that coincides with the grant of employment authorization.

So, we've got an employer having to retain a subscribed form, having to retain the underlying documentation that was submitted to the employer and that underlying documentation

better look "genuine" and the employer, furthermore, has to establish a tickler system to insure that individuals with temporary grants of work authorization get those grants renewed or if they don't, supposedly an employer would then have to lay off that individual until a new grant of work authorization is given.

Now what about the individual, the American citizen who doesn't have a birth certificate? I am sure there are many of us today in this room who don't even know where our birth certificates are. Can that person be hired and then later submit documents? That issue is addressed in the bill, and the answer is no. The individual has until noon of the day after he is hired to submit that documentation. It is the employer's responsibility to record that attestation by noon the following day, and I can tell you because I have experience in this area that, right now, to get a birth certificate from the New York Bureau of Vital Statistics takes over one month. So, we should put our California residents on notice if this bill passes that they better send for their birth certificates and have them handy if they intend to move to a new employer after this bill passes.

Senator Simpson, in his bill, has enticed certain business groups to support the bill because he contends that the record keeping requirements are merely optional. An employer does not have to record documents. Is that true? Are those record keeping requirements really optional? I suggest that they are not. Because if the employer fails to record documents and it turns out that an individual is an undocumented alien, there

is a rebuttable presumption of guilt that is placed on the employer and the employer must present clear and convincing evidence. On the other hand, if the employer records documentation, then the employer has an affirmative defense; and note that in both instances an employer can still be prosecuted.

Now this issue of what is an affirmative defense - what is a rebuttable presumption - sparked a lot of controversy and confusion during the Senate debate. Senator Symms asked Senator Simpson for a clarification of just how the rebuttable presumption of affirmative defense and record requirements was going to work. Senator Simpson, if I may quote his response, referred to the Committee report on this topic, and stated: "An employer who has not complied with the verification procedure, may, for example, rebut the presumption if it can demonstrate that its employment procedures as applied are reasonably likely to avoid the employment of unauthorized aliens. An employer may not plead ignorance, willful or unwillful, in order to overcome the presumption."

The problem I've got with this discussion between Senator Symms and Senator Simpson is, just how do I advise an employer what type of employment practices must an employer develop who chooses not to record work authorization documents? Is he to hire only English speaking job applicants or only those that look OK? So, this so called concession that Senator Simpson has made to businesses is merely illusory in application.

I have another concern regarding how violations are counted under the bill. As you may know, the bill provides for a

graduated penalty structure where the fine increases with each violation that is committed by an "entity" or an employer unit. So, how does the bill define an employer entity? Let me give you an example of maybe a large California corporation that has subdivisions located throughout the state, located throughout the nation. How would they treat this California corporation? And this issue, too, has caused a lot of confusion and it depends on whether that subdivision does its own hiring completely independent of the other subdivisions without any reference to the practices of the other subdivisions. It is not under the control of the parent company or the other subdivisions and is located in a physically separate location.

The following hypothetical was posed in a committee report: Let's say that you have automaker A who is the parent corporation. This parent corporation has two subdivisions X and Y. X is located let's say in Los Angeles and Y is located in New York. Subdivision X commits its second violation. According to the bill, the parent corporation is jointly liable with that subdivision X for that second violation. Let's say the other subdivision in New York commits its first violation. The parent company is also jointly liable with that subdivision in New York. A graduated penalty structure will not be imposed but it will not be imposed only if those subdivisions are operating autonomously and are not referring to the employment practices shared by the other subdivisions. So I can tell you this, this bill is going to generate a lot of business for labor attorneys, for immigration attorneys, and for criminal attorneys. The criminal

attorneys are going to be elated that they have employers that have deep pockets who are facing criminal liability for failing to comply with the mandate of the bill. The labor attorneys are going to be elated over having to explain all these confusing provisions. Every California major corporation is going to be taking a real close look at its personnel practices and I venture to say that there are going to be some revisions.

Now, let me speak a little bit about the legalization provisions. I am very concerned about Senator Simpson's bill that has passed congressional muster. He offers a legalization program for those who entered the United States before January 1, 1980. However, these individuals are not going to be legalized immediately upon passage of the bill. There is this legalization committee that is going to get together and it is going to have three years to study the issue. The legalization committee is going to first insure that affective enforcement mechanisms are in place and then ultimately they have three years to implement a legalization plan. So, in the interim, you have this group of workers here that will not receive permission to work in the United States, will not receive permission to stay here. Yet, if they can avoid detection for three years they'll be eligible for legalization.

The absurdity of passing a delayed legalization plan was addressed in the Senate debate. In fact, Senator Levin introduced an amendment and there was a very interesting discussion. If I could just briefly summarize it. It stated, "We have a very unusual anomaly in this bill. We have a

situation in which people who are going to be eligible for legalization but are still not going to be hireable, cannot be hired legally during this three year interim period. Common sense dictates that once we have reached the conclusion that they are going to be eligible for legalization, we not then take back what we have already given by saying, 'But you can't work while you're waiting.'... There are many reasons not to put these people into a never-never land, into a limbo world, where we say, 'you are going to be eligible, but you can't be legally hired.' We should not do it. In the name of common sense, we should not do it. In the name of consistency in the bill, we should not do it. In the name of fairness, we should not do it." Well, we did do it. Senator Levin's amendment was defeated. These people are placed in never-never land and their employers are placed in the very awkward position of having them on the payroll and these individuals are subject to deportation. Should an INS deportation occur, these people can be picked up and deported without any relief whatsoever.

CHAIRWOMAN WRIGHT: Mr. Bane.

ASSEMBLYMAN BANE: Isn't that the same situation you are in today? They can be picked up and deported at any time.

MS. GONZALEZ: Yes, that is true. But right now there is no sanction against an employer for putting them back on the payroll. There will be tomorrow if this bill passes.

There is another final provision that has really received very little attention and I am very concerned about it. It has to do with students. Today we have very many talented



foreign students who decide to receive higher education in the United States. Some of them have already acquired job skills in their country and they come over here to get a Masters or a Ph.D. degree in, let's say, engineering or computer science. These are not undocumented aliens. These are individuals that come with student visas. An employer recognizes their talent and sponsors them for permanent residency under a system that is in existence in the law today called a labor certification where the employer demonstrates that these individuals are not displacing American workers but their job skills are needed.

Many of these students major in very technical fields and there are fields where we really have shortages in the computer science, engineering, and physics field. I don't know why, but there is just a tendency with the American student to gear more towards liberal arts education and to stay away from these sciences.

If this bill passes, these students will not be eligible to apply for permanent residency nor be sponsored by American aerospace companies that are today using their services nor will they be sponsored by universities that are using their services as researchers and professors. They will be forced to go home for two years before they can apply for permanent residency. Well, these students are not going to go home. They have valuable talents. Many times their home country cannot absorb their skills so they are going to be taken up by other countries that will offer them employment opportunities: Germany, Canada. We are going to be losing a very valuable pool of potential

workers if the student provisions in this bill pass. And there is a grace period, but that grace period is only for three years until 1989. After 1989, all foreign students will have to go home for two years.

In conclusion, I may just say that I wonder whether California really needs this bill. It seems to me as if INS today is very successful in bringing employers to their knees that continue to hire undocumented aliens. I just witnessed the closure of the Del Mar Race Track. I see a lot of voluntary compliance occurring in Southern California. A lot of companies, on a voluntary basis, are screening their workforce in trying to insure that they do have documented aliens.

Other employers I know are employing undocumented aliens but we really have to take a look at why it is that they have these undocumented aliens. Many contend that they just could not do business in the United States without these workers. Sometimes it's a question of wages but at other times it is a question of job skills. We just don't have Americans that are trained to repair shoes, operate sewing machines. There are certain industries that would close down altogether if employers sanctioned provisions were passed and there was not a mechanism to give them the sufficient labor that they need.

CHAIRWOMAN WRIGHT: Thank you. Mr. Custrini.

MR. LOUIS CUSTRINI: As a representative of the Merchants and Manufacturers Association, I would like to talk about some of the, rather than the legal side, talk about some of the practical concerns of the implementation of the immigration

reform bill. First of all, the Merchants and Manufacturers Association believes that this nation has never lost its capacity to absorb the increasing number of immigrants. We believe that these people have made a very positive contribution to the nation.

Looking at the several elements of immigration reform, I would say that most employers believe that there is a need for immigration reform. I don't know that imposing employer sanctions alone is the solution, and I sometimes get the feeling from listening to the congressmen that they are putting an awful lot of faith and trust in employer sanctions. We have concerns about employer sanctions because of the fact that, number one, there is this concern about discriminatory charges against employers. There is a concern that if there is strict enforcement of this, that some employers might say, rather than take the risk and incur employer sanctions, they may not hire anybody who is not a citizen.

I do not say that all of our employers would do that. I think that most employers will comply voluntarily with the law. Even last year where there was a discussion that the Simpson-Mazzoli Bill might pass, there were some employers who called me and said, "Well, we know how to resolve that. We will just get rid of anybody that we think is not a citizen and we will purge ourselves of that to avoid having to face any employer sanctions."

In addition to that, we are concerned about the uniform application of the requirements and also documentation. I know

that Josie did touch on that. That is of concern to an employer. What constitutes valid documentation? Is the government going to give the employer a verification system? If the employer is going to play policeman, are they going to give them a valid verification system? If you call up the Social Security Office to check on the validity of a social security card, most of the time it is impossible to get through and even when you get through they don't have a record. We find the same thing in trying to contact the Immigration and Naturalization Service. So, there are concerns there. There is particular concern about the Frank amendment which would set up an agency in the Department of Justice on discrimination on people based on alienage.

We feel first of all that the Civil Rights Act, the discrimination provisions of the Civil Rights Act, should suffice because it covers national origin. However, what you are now doing is creating another bureau to police this and what happens is that action can be taken against an employer not only under the Equal Employment Opportunity Commission but also under the Department of Justice. And I understand that there are about four different actions at the same time that could be brought against an employer for the same charge. So, we are concerned about that. We are concerned. We feel that there are other alternatives that should be considered probably in addition to the employer sanctions. Some of them discussed here morning, were the fact that this shouldn't be a unilateral effort but certainly there should be some consideration because of its

repercussions on foreign relations, certainly that the Nation of Mexico should be considered as well as this nation in considering the problem.

In addition to that, I think that a stricter enforcement of labor standards in this nation should be a major deterrent. And with that I conclude my remarks.

CHAIRWOMAN WRIGHT: Thank you very much. Are there any questions? Mr. Bane. Thank you so much for coming. I really appreciate it. Melissa Hansen, please.

MS. MELISSA HANSEN: I thank you, Chairwoman Wright, and I realize what kind of time schedule we're on because I've been waiting all day also. I will make mine very brief. The California Grape and Tree Fruit League is part of others from throughout the United States that have formed the Farm Labor Alliance which has supported the Seasonal Worker Temporary Program and it's shown in the form of Senator Wilson's Guest Worker Amendment that was approved by the Senate. And now we are working on the House side. There have been some misconceptions discussed this morning about this amendment, so, real briefly, I will go through the components of the amendment. It allows the Attorney General to let in a maximum of 350,000 temporary workers into the U.S. for a period no longer than nine months and they must remain within perishable commodities. This is not an "open the gates, let them flood in." The Attorney General must make that determination based upon national recruitment efforts of employers throughout the U.S. to determine the availability of domestic workers. If there are no domestic workers there to work

in the perishable crops, then the Attorney General will decide what number can be let in. Workers are then provided the mobility and flexibility to follow the growing season and work for different employers that are perishable crop growers pursuing their most economic, advantageous opportunities. The Secretaries of Agriculture and Labor would have consultant roles in this program, and there are many obligations that are placed among the growers who participate in the program. It would be a complimentary Guest Worker Program to the existing H2 program, which is used by agriculture employers. This is the flexible, free-flowing program that is not the indentured servitude idea. They are not bound to a single employer. They have the freedom to go to the next grower down the road if he happens to offer an even higher wage. Some of the obligations and responsibility that are placed on the growers include: they must first make a good faith effort to recruit the domestic workers; they must provide wages and working conditions that are comparable to those given to the domestic workers and which would not depress domestic wages and working conditions. Currently, the average agricultural wage in California is around, is above \$5.00 per hour. Therefore, they cannot give a wage that is lower than that prevailing and already existing wage. It is not a cheap labor force. They also must provide housing or a housing allowance to the foreign workers and provide workers' compensation or its equivalent to these guest workers. The Attorney General would have help in attracting and monitoring of these workers. There were concerns over the Panetta-Morrison Amendment that was passed

last year that once the Attorney General has let them in, they're gone and we don't know where they're at. So, we have made some improvements to the Wilson Amendment, which include the strong incentives for the worker to go back home, which was mentioned earlier today, the 20 percent withholding, and when he goes back to that country he has to prove that he continuously worked in perishable agriculture. Now the comment was made that 20 percent is not still enough of an incentive for that worker to go back home but if employer sanctions are working, he has a card to work only in perishable agriculture and he will then be an illegal working in the other industry and if the sanctions are working, he'll be picked up and deported.

Violations in terms of the program by workers would bar them from future participation for five years when an employer violates the terms and conditions. He then is suspended from participation and would receive civil penalties. The administration of the program would not be a drain on our taxpayer dollars. It would be funded by a user fee paid by the growers, and the seasonal worker would not be eligible for federal welfare programs because we don't want them to come in and go on our welfare programs. We want them in here working.

That's pretty much a bare bones description of the program and I want to touch real briefly on the need from our perspective as to the program. Why have the perishable growers placed such importance, high priority, for the last three or four years on a separate program in the H2? The biggest reason is the flexibility. Under the current H2, regardless of the

improvements under Senator Simpson's, a grower has to guess either 80 days or 65 days in advance how many workers he wants and the exact date that he needs them. In perishable agriculture, your harvest start-up date can vary and you won't know that a week before. Last year we had the record month of June with heat all month long in excess of 100 degrees. That compressed the harvest season two weeks early. Now, if a grower had been in an H2 program, and although maybe he had 15 domestic workers that are available but he needs a few more, he would not have been able to get those workers there fast enough. Senator Simpson has tried to address that concern by placing an amendment or an improvement in his bill, a 72-hour emergency exemption if the Department of Labor could make that determination to allow you to bring a few more workers in, those workers are still in their foreign country. You still would have to contract with that country and by the time they got to your farm, your crops would either be rotting in the field or lying on the ground. Weather is the dictating factor, not the Department of Labor. There have been no agricultural employers in California try to use the H2 program of perishable crops. There are some shepherders, but there have been no perishables. Several have tried and have even each year gone a step further but because of several different factors, they have not been able to carry it out throughout.

The impact upon California is pretty easy to look at. The production of fruit and vegetables is tagged at more than five billion dollars. As Russ Williams touched on earlier,



that's not just agricultural jobs but then you multiply that by four because one in every five jobs is somehow related to agriculture, you're looking at a \$20 billion boost to the economy. You're looking at more than just jobs on the agricultural production end. The value nationwide is 23 billion dollars. The perishable industry is obviously important to consumers to enjoy high quality fresh fruit and vegetables all year long. If we do not provide some mechanism for the perishable growers to find those workers that they need, the addition to their domestic workers, we look at imported fruits and vegetables and higher prices because there will be a reduced availability. Do you have any questions?

CHAIRWOMAN WRIGHT: No, I don't. Do you have any, Mr. Bane? I want to thank you very much for having the patience of waiting before you got your turn. I'm going to call four people at this time and I'm going to warn you that my time is running out very quickly. Linda Wong, Bea Molina, Elizabeth Sandoval and Eric Vega. May we have those people?

MS. LINDA WONG: Good afternoon. My name is Linda Wong, I'm an attorney and Director of the Immigrant Civil Rights Program for the Mexican-American Legal Defense and Educational Fund. What I would like to do this afternoon is direct my remarks to the centerpiece of the legislation, which is employer sanctions. There are two fundamental questions which have been raised in the Congressional debate that addresses viability and adequacy in dealing with the problem of undocumented immigration to the United States. First, whether sanctions would be an

effective enforcement mechanism in reducing the flow of undocumented people to the United States and secondly, whether it can be enforced without discriminatory impact on minorities. In responding to those questions, I would like to take the issues in reverse order because I'd like to go through the practical implementation of sanctions to see what is likely to happen. Now, in that second question about whether sanctions can be enforced without discrimination, there are two sub-questions that I heard you raise earlier this morning. First, who should bear the responsibility of determining a person's immigration status? Should it be the employer, should it be someone else? Secondly, how is that determination to be made? Is there a foolproof verification system? In responding to those two sub-questions, I would submit to you that it is the responsibility, the final responsibility, of the Immigration Naturalization Service to make a decision as to the status of an individual but the problem is INS very often itself does not know who is here legally or illegally. In explaining that, how I came to that conclusion, let me give you some background around this question of the discrimination issue so they can see the development of the Congressional debate, the amendments that were introduced in response and the concrete documentation that we have obtained on the discrimination issue.

Organizations like MALDEF in response to the employer sanctions proposal have taken the position that sanctions really do not address the underlying causes for illegal immigration to the United States, that if it became law the result would be more

employment discrimination against minorities, particularly Hispanics. Secondly, employers would more likely scrutinize the documentation presented by minority job applicants as opposed to white job applicants. Now, in response to these two concerns, in the Congressional debate last year, Congressman Barney Frank introduced an amendment on the House side that would establish an administrative remedy to allow persons who saw themselves as victims of discrimination to file charges with an administrative agency. That amendment passed by an overwhelming majority. However, after House passage, questions emerged about number one, whether the discrimination issue was a legitimate issue, whether it was real or an imagined problem. Secondly, whether the existing civil rights laws were adequate to protect persons against employment discrimination. In reply to these two questions, we began to document the cases that came to our attention in two instances, in the context of INS enforcement activities and also in the employment context because whether or not we like it, we do have a hothouse experiment going on today where we do have employer sanctions, and I'm not referring to California Labor Code Section 2805, which is the state equivalent of employer sanctions, but rather an INS enforcement program that is now in effect called Operation Cooperation. In going to the enforcement context again, if you agree with the assumption or the assertion that it is the responsibility of the Immigration and Naturalization Service to determine who is here legally, then you should examine the practices of that agency when they go out and enforce immigration laws and question people about their

immigration status. There are two cases that have been litigated recently in which court decisions came out, one in Washington state and one in Northern California in San Francisco. The case in Washington state challenged the authority of immigration officers to stop vehicles on the open road to question passengers about their immigration status. In that lawsuit, immigration officers testified as to the criteria they used in determining who was here illegally or legally. The criteria that they used, in addition to Hispanic appearance, was dirty, unkempt appearance, a lean and hungry look, an avoidance of eye contact with immigration authorities. Now, I'm not taking this out of thin air. These are the words that the immigration officers used themselves who testified in open court. Obviously, the court rejected the use of those criteria in deciding whether they could stop a person to question him about the immigration status.

Now, in the San Francisco lawsuit against the Immigration and Naturalization Service out of which a preliminary injunction was recently issued, I want to cite to you three examples of how INS made the decision to detain people to question them about the immigration status. In one example, there was a raid on a poultry processing plant north of San Francisco. There was a Hispanic employee who was stopped by three different immigration officers and questioned about his immigration status. He presented a letter from the immigration judge which indicated that he could pick up his green card papers in Vancouver. He showed those papers to the first immigration officers. The first immigration officers let him go. The third

officer did not because he did not recognize the judge's signature and, as a result of that, took the employee outside, handcuffed him and locked him inside the immigration van for the duration of the raid.

In his second example, an employee of Hispanic descent was questioned by three separate immigration officers. This employee was an American citizen by birth. The first agent asked where he was born. He answered the question, the agent left. The second agent asked him the same question and that agent let him go. Now in both instances, the questioning occurred in English. The third agent questioned him in Spanish. The employee answered in Spanish and simply because he answered in Spanish, the agent grabbed him, handcuffed him, took him to the van where he was held during the course of the raid.

And the last example I will give you, there was in San Jose a raid on a convenience store owned by a Hispanic citizen. The immigration officer went into the store, stopped the store owner to ask her for proof of her legal status. She said that she was a naturalized citizen and she told him that she knew her rights and that American citizens do not have to carry their documentation with them. Because of her response to his question, he detained her for over an hour and would not allow her to go free. Now, immigration has responded that a lot of these abuses could be eliminated if we had some kind of systematic approach in verifying people's immigration status and the response from Immigration Service has been to implement employer sanctions. However, there are problems with employer

sanctions and I see those problems surfacing in part through this Operation Cooperation that is now in effect here in California and indeed on a nationwide basis. Operation Cooperation is simply voluntary employer sanctions. What INS is now doing is approaching individual employers or employer groups and asking them to voluntarily screen job applicants and existing employees on their immigration status and those employees who could not present evidence of their lawful status would then be terminated by the employer. We've had two instances brought to our attention of the effects of that Operation Cooperation, one in Oregon and one in Southern California. In Oregon, we had a Hispanic legal resident who had his green card for nearly 15 years who tried to seek employment at a food processing plant. He was not hired by the employer until his green card could be verified. Immigration was contacted to verify that green card. INS went through a computer check and could not find the alien number, the green card number in its computer records so that information was conveyed back to the employer. The employer told that person we can't hire you because INS doesn't have your green card in its records. The person went to two other employers. They would not hire him for the same reason. Finally, he went to an attorney and asked for assistance. That attorney, after much persistence, finally got the INS after three months to conduct a manual search of its records. After that search, it finally found his files that verified his legal residence status but he was blacklisted for three months. He could not work that entire period of time.

Now, another example is brought to our attention. It shows us the divisive effects that employer sanctions could have, not simply on the part of employers knowing who to hire, who not to hire but the potential impact on the workforce itself. We had a situation with Kaiser Hospital in Los Angeles where an anonymous complaint was filed with the Personnel Department alleging that a particular employee was here illegally. She was called in by Personnel and asked to present proof of her lawful status. If she failed to do so, she would be suspended from her job. She told Personnel, "I'm not going to show you my green card, I am a legal resident, that information should already be in your files because I was asked that same question five years ago on a separate matter." The Personnel individual did not go through a record check. It was only, again, after a great deal of persistence from the Hispanic employee that she finally located the file and found a xeroxed copy of her green card in the personnel file. She called the Immigration Department. Immigration verified it through the computers and only then was that employee assured that she would not lose her job but because of the emotional turmoil she went through of having to prove her right to work here, she had to apply for Workers' Compensation because of the emotional distress that she went through.

Now, what are the conclusions to be drawn from these two examples? First, no matter how good your documentation, and the documentation in those cases was legitimate, the employee's credibility and the authenticity of the documents are always called into question. So, even though you were born here and you

show your birth certificate, there is no guarantee that that employer will believe its authenticity. Secondly, verification by Immigration Service is not a reliable indicator of a person's legal status here in the United States and that presents a whole new area of problems because the proponents of the bill both on the Senate side and on the House side say that the responsibility is not on the employer's part. He does not make the judgment as to whether an employee is here legally. Immigration will make the judgment but, as we have seen, Immigration cannot always determine with certainty whether that person is here legally.

I'll give you, again, a couple of examples as to the kind of record keeping that the Immigration and Naturalization Service maintains. The most recent data available on INS statistics go back to 1981. In the 1981 statistical yearbook for INS, it indicated that all non-immigrant data was lost, permanently lost, for the fourth quarter of fiscal year 1979 and for the entire fiscal year of 1980. It also indicated that approximately 133,000 records on legal immigrants here in the United States were missing for fiscal year 1980, and that another 130,000 records had to be reconstructed from administrative files but the information we still lacked was whether these legal immigrants had work authorization, work permits. See, even though you have part of the records, you don't have that crucial part pertaining to their right to work. Harlan Keister, who is chief of the Index System Section for the Office of Information Systems, which is the computer data office of INS in Washington, D.C. indicated in a declaration, a written declaration, that the



Immigration Service generates approximately 1.4 million records a year. It is 6.2 million records behind in inputting all of that information into the computer banks, so an employer, who operates in good faith, who tries to verify the status of a job applicant or a person currently working is never sure even after talking to INS whether that person is here legally and has the right to work. Now, in the House bill there is a proposal for a pilot project, a demonstration project, a telephone verification system that employers can use to verify the legal status of people seeking employment. That demonstration project addresses only the procedures. It does not address the adequacy or inadequacy of the INS data base. And that's the fundamental flaw in employer sanctions because an employer, no matter how hard he tries, will never know for sure.

Where does that lead us? It shows us that as that Operation Cooperation currently works, there has been discrimination against minorities, particularly Hispanics, who are American citizens and legal residents and that, in fact, people have been denied employment and have lost their jobs or been threatened with the loss of jobs. Secondly, Operation Cooperation, which is the nearest we have right now to employer sanctions, has not necessarily discouraged employers from hiring undocumented workers. In fact, it has had the opposite effect. It has only led to expansion of the H2 program.

You mentioned earlier today the racing industry, and I'm sure you're well aware of the publicity surrounding the raids at Del Mar Racetrack as well as Santa Anita. Well, it's an admitted

fact that many of the employees at the racetrack are undocumented. However, even with the raids at the racetrack, that has not necessarily discouraged the trainers from rehiring those undocumented workers. What they are now trying to do is bring them in legally under the H2 program, so the net effect of that enforcement program is basically to expand and institutionalize into the urban sector a guest worker program.

Now, in trying to formulate an alternative to the existing legislation because I really do not believe in simply criticizing, we do have to offer other alternatives. There are two key issues that surfaced in the testimony today. Number one, immigration is a bilateral issue, and yet in the last three and a half years of debate, there have been no formal discussions between the United States or the government of Mexico around the immigration issue even when de la Madrid came to the United States last year to talk to President Reagan. Secondly, even though we have physical borders drawn between the two countries, what is evident is that the two countries are tied together economically, that there is this economic interdependence. So, despite the physical borders, we have no economic or, indeed, social borders. And if you really want to deal with the underlying causes of immigration, I really do believe you will have to address those issues, and California is in an excellent position to do so because of its trade and economic ties with Mexico as well as with the Pacific Rim countries. And that is an issue that I believe should be brought to the attention of Congress. Last year, when both the Senate and the House were

holding hearings on the issue, MALDEF urged the Judiciary Committees in both Houses to hold field hearings. They did not. I think that's one of the major problems we have because the states that are most impacted by this issue have not really had an opportunity to formally convey their opinions, their ideas, their concerns over the immigration legislation now pending in Congress. And, in fact, what is happening today, is that the bill that is now in the House side, while it began as an effort to reform the immigration laws, has in the end become a labor bill for growers since no longer addressing the immigration issue. Thank you.

CHAIRWOMAN WRIGHT: Thank you. Bea Molina.

MS. ELIZABETH SANDOVAL: Yes. Can you hear me?

CHAIRWOMAN WRIGHT: Yes, I can.

MS. SANDOVAL: First of all I'd like to inform the committee that Mr. Alex Garza has been here or was here from the Migrant Farmworker Rights Project. He stepped out right before we were called. He's going to try to get back but he did want me to state on behalf of the Migrant Farmworker Rights Project which is a farmworker assistance project based here in Sacramento that they wanted to go on the record in total opposition to the bills that are currently in Congress and that, as they stand, there are no amendments which could possibly be made to those bills which would rectify the discriminatory problems that the bills have.

CHAIRWOMAN WRIGHT: Okay.

MS. SANDOVAL: My name is Elizabeth Sandoval. I'm an attorney, I work in Woodland and have for some time been involved

in the immigration issue. I am here today on behalf of the National Task Force on Justice for Immigrants and Refugees and let me give you a background on who and what this organization is.

The National Day of Justice Task Force was formed in April of this year at a conference, which took place in Los Angeles and attended by over 150 representatives of different organizations from throughout the country who work on immigrant rights issues, immigrant and refugee rights issues. We formed and called for a National Day of Justice which was and took place on October the 19th last month. And on the whole we saw that it was pretty successful. We held hearings in New York City, hearings in the Central Valley, activities in Hawaii, Chicago, different parts of Texas; and on the whole we believe we reached thousands of people.

I think that the crux of our analysis is that at this time, the political trend in our country is that there is an overall off-sided attack upon the rights of immigrants and refugees. What we mean by that is that there is a chipping away at the rights, specifically, the democratic and civil rights of immigrants and refugees in different arenas, not only in the legislative arena but also in the enforcement arena as well, as policies being implemented and enforcement of immigration and other laws against people who work in the refugee arena, specifically sanctuary workers.

My particular comments are going to be addressing the Simpson-Rodino-Mazzoli bills.

CHAIRWOMAN WRIGHT: Excuse me. You are going to summarize and not read your ...

MS. SANDOVAL: It is not a long one.

CHAIRWOMAN WRIGHT: Thank you.

MS. SANDOVAL: I should be done in plenty of time.

CHAIRWOMAN WRIGHT: Thank you very much.

MS. SANDOVAL: The members of the National Task Force on the 1985 National Day of Justice for Immigrants and Refugees wish to present before this Committee their views and opinions on the proposed legislation now before Congress. The Simpson-Rodino bills are an assault on immigrants' rights. These bills have been the leading edge of the assault on immigrants and refugee rights for the last several years. We oppose all legislative and administrative attempts to implement employer sanctions and increase border patrol enforcement.

We are also committed to dispelling the myth that undocumented workers take away American jobs, which underlies the Simpson-Rodino-Mazzoli bills, and to organizing public pressure and protests to stop this bill once again. The bills gather steam for final Congressional passage. The rapidly escalating right wing political trend evident in Reagan's second term has clearly helped shape this year's version. This dangerous version which has already passed the Senate, promises increased harassment and discrimination, mass deportations, and the continued curtailment of the democratic rights of immigrants and refugees. This bill is even more restrictive than the old Simpson and Mazzoli bills. The possibility that it will pass

looks high. A strong consensus that the U.S. has lost "control of its borders" has been developing in Congress over the last several years. There is considerable pressure from right wing ideologues, agribusiness, and other sectors to pass legislation in their interest. Rodino sponsorship of the bill is evidence of the commitment to insure passage of the bill. Rodino is the Chairman of the powerful House Judiciary Committee and carries the influence of a senior Congressman.

All sectors of our population must quickly and decisively move to expose the anti-immigrant scapegoat logic behind the bill and demand that it be stopped. The '85 bills are a product of many years of discussion and proposals on "immigration reform," beginning with the Carter administration and the Select Commission on Immigration Reform in 1979. Since that time, the Reagan administration has actively proposed sweeping changes in immigration laws and policies, including unveiling Reagan's own proposal since September of 1980.

Reagan later supported the efforts of Simpson and Mazzoli and constructed a "compromise bill" which falls directly in line with the administration's positions, which incidentally, was corroborated by some of the testimony today. Reagan has already voiced support for the current proposals. While the main provisions are similar to previous versions, this year's bills have been streamlined in an effort to reduce opposition to the bill from conservative forces who thought that last year's bill was "too liberal" and its legalization program "too costly."

Employer Sanctions. A key section of the bill, employer sanction, set civil and criminal penalties against employers for "knowingly hiring" undocumented. The penalties range from \$1,000 to \$10,000 -- fines for each undocumented worker. This provision rests on the idea that the U.S. is being overrun by illegal aliens who are stealing American jobs. Its logic is that sanctions will stop employers from enticing undocumented workers with jobs and will reduce the pool of immigrant labor into the U.S. However, the so-called employer sanctions impose upon the undocumented worker for using fraudulent papers, a fine of \$5,000 or imprisonment for up to 2 years. Labor advocates project that employer sanctions will spur a whole new level of INS scrutiny and repression at the work place. In addition, sanctions may well lead to discrimination against legal residents or U.S. citizens; minorities born in the U.S. who look "foreign" in the eyes of the employer.

There are already reports that under the threat of future sanctions, employers have harassed and threatened minority employees. No adequate safeguards can be placed on the bill to prevent such abuse. Regarding the temporary workers program, in a very controversial move, the Senate approved a temporary workers program that could bring up to 350,000 workers in the U.S. at any one time for seasonal farm work. Although in previous years, Congress has been reluctant to include a program that so closely resembles the widely criticized (inaudible) program of (inaudible) got passed. Today's right wing and antilabor climate provided the backdrop for a successful western

grower's lobby for a pool of cheap foreign labor. Many speculate that the number of temporary workers will actually be much higher than 350,000 on an annual basis. The House bill would streamline the guidelines for employers to obtain temporary workers, thus allowing a major expansion of workers with few, if any, rights.

It is no secret that this temporary workers program is designed to undercut standards for U.S. labor by using workers who must accept low wages and will be limited in protesting working conditions or other grievances. The inclusion of this provision indicates that the bill's aim is not simply to seal the borders but to create a more "controllable source of cheap foreign labor for U.S. business."

Regarding legalization. The Senate's legalization program offers temporary status to those undocumented workers who have lived in the U.S. prior to 1980. After  $2\frac{1}{2}$  years they could apply for permanent residence. However, even those who might qualify for legalization would not be eligible for public benefits for nine years after joining the program. The House bill had a January 1982 cutoff date to obtain temporary status which could be adjusted to permanent after a year. Then, after meeting various requirements, they would be eligible for federally funded public assistance, five years after qualifying for legalization.

These proposals are even more weak than the restricted programs of previous years. Under the Senate version, the implementation of the legalization program may be delayed up to three years after the bill is passed. Eligibility requirements



are stiff. Applicants would have to prove continuous residence in the U.S. since the cutoff date as well as satisfy English language and history in government requirements to obtain permanent residence.

Last year, the Congressional Budget Office estimated that only ten to thirty five percent of the undocumented would be eligible, given the 1982 cutoff date. Finally, there is serious danger of mass deportation on the scale of the 1950's Operation Wetback to reduce the number of undocumented immigrants in the country before the legalization program begins. Many are also concerned that undocumented would be "entrapped by the lure of legalization", identify themselves and be targeted for deportation, a phenomena we saw a couple of years ago that actually occurred.

At any rate, once the bill is passed, the INS will have even greater leeway to step up harassment and raids on neighborhoods and work places to weed out the undocumented whom they claim would not qualify for legalization.

Under the increased enforcement provisions, the INS would almost double its current budget to \$840 million according to the Senate passed version which encourages increases for border patrol and enforcement activities. The Rodino-Mazzoli bill proposes a \$422 million budget, which increases, with increases from (inaudible) purposes. It is quite apparent that California would, in particular, be affected as INS activities exist throughout the state and along the border with Mexico. Increased enforcement would also affect the large U.S. citizen

and legal resident Hispanic population of this state, in that they would more than ever be targeted by the INS looking "foreign born," thus resulting in violations of civil rights.

In regard to refugees. Because there is no special status for refugees from Central America and the Caribbean, they are subjected to the same laws and requirements which immigrants from other parts of the world are subjected to. They, too, would be victimized by the same provisions of the Simpson-Mazzoli-Rodino bills. However, the bill takes a clear shot at the refugee movement by increasing penalties for the transportation and protection of the undocumented. That is aimed at silencing the sanctuary movement. That is our contention. Church-based sanctuary work has brought national attention, not only to the plight of refugees but to U.S. policies supporting repressive governments in Central America.

The House bill also creates a \$35 million fund for "immigration emergency," a reflection of domestic preparation, in our view, for an escalation of U.S. involvement in Central America resulting in an increased flow of immigrants from there to the United States. The implications for passage of the bill are that it results in the importation of a highly exploited temporary foreign labor work force; the groundwork for further INS abuse and mass deportations, increased discrimination and deportation of tens of thousands of refugees to face government repression and possible death.

All of these should serve as rallying points for total opposition for the Simpson-Mazzoli-Rodino bills. Even "positive

amendments" to minimize the harmful effects of the bills cannot stop what is becoming the institutionalization of repression against immigrant communities that this legislation seems to promise. The implications for California cannot be lost given its high Hispanic population and the extensive economic role which the undocumented and documented immigrant labor has on our state. The Simpson-Mazzoli bill must be stopped.

I think, in summation, the National Day of Justice Task Force takes a position that at this time, no bill is a good bill. The provisions within the bills primarily have been formulated throughout a whole debate over the past three or four years which have centered more so on the interest of big business as opposed to the interest of these workers. I would agree with some of the testimony, given in particular by Mr. Peter Schey, that ultimately, in order to start chipping away at some of the unevenness of the ability of these workers to defend themselves, is to give them equal rights, particularly in labor rights. It is our position that if a worker comes to this country and works, pays his social security, pays his taxes, he should be entitled to the rights that other workers of this country have by virtue of that contribution to the country.

The mere fact that he does not have papers, he or she does not have papers, provides the basis for the exploitation. And to start chipping away at that basis for the unevenness which I really think is what this Committee is trying to get at is, how do you develop a humane immigration policy? Well, you begin by starting to give people equal rights.

One of the points that the Committee can also not ignore is that the reason why we have the immigration phenomena is because you do have a highly developed industrial country and an undeveloped country. So long as that exists, the immigration process is not going to stop. Therefore, when people speak of "solutions," people are actually being quite idealistic. We cannot find simple answers. I think some of the Committee members have said, "Okay, what are the alternatives, etc." It is not a simple solution because it is not a simple problem.

CHAIRWOMAN WRIGHT: I am going to ask you, if you don't mind, I am going to ask you to please conclude in two seconds, because my time is running down. I have other people here.

MS. SANDOVAL: I think that was pretty much coming down to my conclusion is that it isn't a simple problem.

CHAIRWOMAN WRIGHT: I agree. It is not. Thank you so much. I am going to ask Clance Lealand who is representing Supervisor Dean Dana from Los Angeles, Hans Van Nes from the Agriculture Department, Donald McCune from Education, and I am going to ask Joseph Nalven to be on alert. As soon as I get these three gentlemen, I understand that there is an Alex Garza. I will have you next.

MR. CLANCE LEALAND: Madame Chairman, my name is Clance Lealand, representing the Board of Supervisors of Los Angeles County, particularly Supervisor Dean Dana.

I will submit my remarks to your consultant, Monday, so the full text is available. Just very briefly, the concern of the Board is not really on the policy of legalization or how that

is done. Our concern really centers around the potential cost implications. The first chart I gave you which was a pie chart based on the 1980 census figures, the undocumented aliens are estimated at about 2,057,000. If you look at the number in Los Angeles County, 658,000 undocumented aliens, we have about 32 percent of the nation's undocumented aliens in Los Angeles County. We actually estimate that the total there is higher than that. We think that it is about 1.1 million, almost double those amounts. Nationwide, I think the numbers could, if they follow the same, I think we still pick up that share.

The second chart is the cost we have computed for the two different bills. What we think will occur the way they are presently written without better definitions on federal reimbursement, the Simpson bill would cost the County approximately \$300 million per year in cost for general relief as well as our health. Now, in our health services, I think that we find that they are underutilized by the undocumented aliens for fear of being reported to INS. Both of those, for the Simpson again, the cost is about \$300 million. Under the Rodino bill, where you have eligibility, not the AFDC but into some of the health, it splits the costs. The County's cost then would be approximately \$200 million, the State about \$150 million, and the federal government, roughly about \$150 million.

What the Board is seeking is some type of full reimbursement back, particularly when you look at the possible elimination of federal revenue sharing next year, and other reductions that may be made in the federal budget. This, on top

of it, will have the potential for being disastrous. Our concern, again, is not on the policy. The Board is very much concerned on the fiscal side of it. I will give you the prepared full statement that I have to turn in, Monday.

CHAIRWOMAN WRIGHT: Thank you so much. Hans.

MR. HANS VAN NES: Yes. Madame Chairperson, Hans Van Nes, Department of Food and Agriculture. You've had a long day and you pretty much heard from some witnesses what I had to say but I would just like to point out that I will be submitting my testimony to you. It does represent the position of the Department of Food and Agriculture and the administration. And we are in support of the Guest Worker Program, which is part of the Simpson Bill, and we feel that perishable agriculture, which you heard here today in California, 45 percent of the nation's fruits and vegetables are supplied by California. Our farmers have been relying on foreign workers for a long, long time. Somebody said we would be left naked today, I think, if they just pulled that out all at once, and we tend to agree with that and that is why we are supporting the Guest Worker Program.

When I talked to you about coming here, you asked about the California Agriculture Employment Work Group. That is a group that has governmental people on it, people from CRLA, pardon me, the migrant workers, farmers, various agricultural organizations. It's got about 35 different people that meet and work together trying to work out problems with finding agricultural workers, getting them placed. They are working on housing problems and all kinds of things. And I have some

information in here for you about that. If you, as you and your staff look at this information, if you need help on any of it or need any follow-up, you know where I am. Thank you.

CHAIRWOMAN WRIGHT: Thank you so much. Yes, sir.

MR. DONALD MC CUNE: I am here representing the Department of Education in response to your request for the impact of this legislation upon education. Just very briefly I've given you a fairly careful analysis. We've looked at it all. It appears that the impact will be on the adult education programs. In the time I have been here, I haven't heard anybody address that but there is the requirement that they either demonstrate minimal English and knowledge of American government and civics or that they must be enrolled in a course to do that.

We do have major programs in the state serving some 650,000 people now. Those programs are so oversubscribed that we turning away estimates of 1,000 a week that are unable to come to our English as a second language program, or citizenship programs. The impact, obviously, is if this immigration bill were to be enacted, we would find ourselves being inundated with with clients. We don't have any idea how many those would be. We know that we are serving some of those now because we don't require any evidence of citizenship or anything else. They show up. We help them. But we do know that there will be a significant number. I can only tell you that, personally, when I visited some campuses in the evening, people disappear because they don't know who I am and they think I am there to look for green cards. So, we do know that there is a heavy influx.

Estimates of cost are equally soft as we said in our report. We don't want to imply that we know exactly what this would cost because we had great difficulty. We had legislation this year asking for \$10 million to help us with the ESL problem. We got \$600,000. So, we need \$10 million now for openers, just to stem the tide. And if these people are here and are going to be going through that legalization of status process, they are going to have to get into programs and we have some idea of what the level is. They are going to have to be in there for probably a year to two years in order to maintain that level of expertise. We are also available to you. I hope our testimony will give you some written evidence in much more detail that you can utilize in your considerations and appreciate the chance to share that with you.

CHAIRWOMAN WRIGHT: Thank you so much for waiting, too. Joseph Nalven.

MR. JOSEPH NALVEN: Thank you very much. I work at the Institute for Regional Studies of the Californias at San Diego State University. I've done considerable research on undocumented immigration in a study for the County of San Diego on the economic impact of undocumented immigrants on the County, and a follow-up study on employers in farming, restaurants and electronic assembly work, looking at it from the employer's perspective. I have given testimony on this to Senator Alan Simpson's Committee back in 1981. I will forego comments on my previous research. I think that we are all saturated with that. Most of that is summarized in my written reports that I have



already submitted to the Committee. I wrote a special paper for today. I just thought that I would have some fun. Let's assume that the legislation passes.

Here we are in 1989 and we are looking back. Did California create its own immigration commission so they could get its act together? With many of the testimonies that you heard today, did California really monitor the results systematically or did they leave it to the federal government to do their own homework? Obviously, the federal government did not, and surprise, surprise, we have some unanticipated results which I outline in some fictional newspaper stories from 1989. One of which, I will just share with you is: Three hundred thousand guest workers admitted to the U.S. None go to California. It could happen. So, I suggest that you take a step and assume that there is a good chance for passage this time around, especially in light of studies such as the new GAO report which indicates that a study of European nations on guest employer sanctions had been far more effective since they improved them over the last three years and resulted in little discrimination against citizens. What will be more persuasive to Congress in passage of legislation, whether that works out the same way in our country remains to be seen. And there is quite a bit of skepticism about the law.

So, I would urge the Committee to consider some system, whether it is a commission or some other form of monitoring what goes on in California to make that case to Congress as reports are due and it will be reviewed and refined and tuned down the road. Thank you very much.

CHAIRWOMAN WRIGHT: Thank you so much. I really appreciate your waiting for us and making that presentation. Now, I believe that there is Alex Garza. You are in place of Eric Avega?

MR. ALEX GARZA: Yes. Eric Avega is the Chairperson of the American Farmworker Rights Organization Project and couldn't make it. I am the coordinator. The American Farmworker Rights Project is an organization that is an educational group that advises farmworkers in the Northern California area of their legal rights, their health and welfare rights.

I don't have a written statement but just my comments, very short comments to help the Committee in its future recommendations and possible actions in relation to the Simpson-Rodino-Mazzoli bill. It has to be understood that in the Latino community, the Mexican community, the families are interlaced with documented persons and undocumented. We have one person who came here today who stated that fact. The entire communities are likewise, undocumented and documented, sometimes in the same household.

The Mexican community has vigorously defended its rights, political, economic, and social rights, through educational and informational campaigns, particularly to eliminate a lot of misinformation that the public receives. Many myths are built up over the years. We also have had to have more vigorous campaigns of protest marches and demonstrations to expose critical violations. For example, here in the Northern California area, over 13 farmworkers have drowned as a result of

the unnecessary tactics by the border patrol in chasing down persons from the fields and then they drown in canals and sloughs.

So, we have seen that the present situation in our society is one that undocumented Mexicans and Mexicans that are here with papers or that are born here are facing some similar types of repressive environments. The same things go for the Asian community, Black community. In Florida, the Haitian refugees are going through the same things. We are beginning to see that there seems to be, every time that a bill is offered in Congress to deal with immigration, to deal with undocumented, it seems to be in the same step as an attack on affirmative action programs throughout the country. On social services cutbacks, they seem to run parallel with many very extreme kinds of statements made by groups that in the past seemed to lay dormant but once they see that there's this kind of legislation around, it emboldens them. We're seeing the rise of very reactionary, right-wing groups in the South and even in other areas of the country where they formerly did not know prominence. They're coming out on television. They are getting bolder. So, we feel that this is a very dangerous time for our community. We would hope that the political figures and representatives look at this thing very carefully and be able to judge what makes sense and what does not. I would like to say that for our organization that we're working with farmworkers. I would suggest that you look at the basics and some of the things are you allow the workers to come from Mexico in their youth, in the best times of

their lives, they come healthy. They come here and they work in our fields, they get poisoned by the pesticides sometimes, they get mangled in our farm machinery or machinery in our factories. They're not provided medical help, they're not provided social service programs. The gentleman from Los Angeles just said right off that in Los Angeles the service is underutilized. It seems to be the way throughout the whole state.

So, it seems that we spend very little on the workers from Mexico. Yet, when we have used them up, we have squeezed the last strength that they have or when they are broken or mangled, then we send them back to Mexico where the Mexican government and the people themselves have to put up with them. In many cases, they go back home in coffins, like the farmworkers who drowned out here. So, we feel that if the employers are going to have workers here working that they need to pay them right, to provide all the different amenities that other workers have so they can survive, and the only reason that we see that they don't want to do that is that sometimes aggregate business is known for its quest for super profits at the expense of the employee's right to housing, education, welfare, if necessary, and health.

Just a few minutes ago, you got introduced to millions of figures, 300 million dollars that it would cost in one year for the Rodino bill. But I think you have to look at all the lives here and all the conditions of people and see what they put into the economy, not just what they would use up like in Los Angeles county.

To finish up, what we feel is needed in any kind of program or administrative remedy is that the undocumented that are here under any kind of circumstances, that they're allowed to come in, that they all be treated with all the constitutional rights as any other person would in the United States, that all the health and safety programs be allowed to them and that they have the ability to bring their families if they want to settle here, that we would help them reunite them so an immigration policy would take that into account of any workers who came here.

We also stress that the right to unionize is very important so they can protect their economic rights. Once they got here, they'd make that decision, the right to become permanent residents and citizens without excessive, ponderous obstacles.

Finally, in another section (because a lot of the American farmworkers are also from the Central American countries of Guatemala and El Salvador) we're seeing that it's very necessary for the refugees to be taken care of. We feel that the law should contain any assurances that the refugees from Central America shall be provided asylum based on political persecution.

The present bills that are before Congress provide unfavorable, unwarranted tax on church groups, community organizations or people of conscience who are trying to assist the refugees from Central America and we feel that part of the law ...

CHAIRWOMAN WRIGHT: I'm going to give you about 20 more seconds.

MR. GARZA: We would like to recommend to this committee and to the leadership on this issue that the Simpson-Rodino-Mazzoli bill be opposed at this time. It has gotten worse instead of better than from past years and I'm sure there would be many organizations that would like to get together with you at a different time and really work out some just solutions. But you've got to have the input of all the people, especially the ones that are going to be affected. Thank you.

CHAIRWOMAN WRIGHT: Thank you so much. I want to thank everyone for coming. This is the second of three hearings that we'll be holding in regard to the relationship between California and Mexico. We had planned to have another hearing in December. I believe that will be postponed until sometime in January because we do not have all the information nor all the witnesses we would like to have together and so we'll make an announcement at that time when the next hearing will be and that will be on economics and trade between Mexico and California. I thank you all for coming.

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